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IDAHO PUBLIC
UTILITIES COMMISSION

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October 19, 2015

VIA OVERNIGHT DELIVERY

Jean Jewell, Commission Secretary
Idaho Public Utilities Commission
472 West Washington
Boise, Idaho 83702

WIR-T
WIR-T-15-01

Re: i-wireless, LLC Application for Limited Designation as an Eligible Telecommunications Carrier

Dear Ms. Jewell:

Enclosed please find for filing an original and seven (7) copies of i-wireless, LLC's ("i-wireless") Application for Limited Designation as an Eligible Telecommunications Carrier in the State of Idaho.

i-wireless has also enclosed one (1) copy of Exhibit 5 (CONFIDENTIAL NAL Response) on a CD-ROM in a separate sealed envelope marked "CONFIDENTIAL." i-wireless respectfully requests the appropriate confidential treatment of the enclosed NAL Response in accordance with Rule 67 of the Commission's Rules of Procedure. The NAL Response is protected by law from public inspection, examination or copying. The NAL Response contains proprietary and competitively sensitive information that is not customarily disclosed to the public or within the industry and constitutes trade secrets. The NAL Response reveals details about i-wireless' business practices, sensitive customer information, and financials, the disclosure of which would cause harm to i-wireless and put the Company at a competitive disadvantage. i-wireless takes reasonable efforts to maintain the confidentiality of the NAL Response in all jurisdictions. i-wireless expects that the NAL Response will be restricted to counsel, agents, and employees who are specifically assigned to this Case by the Commission.

I have also enclosed an extra copy of this letter to be date stamped and returned to me in the enclosed, self-addressed, postage prepaid envelope. If you have any questions or if I may provide you with additional information, please do not hesitate to contact me. Thank you.

Respectfully submitted,

Lance J.M. Steinhart
Managing Attorney
Lance J.M. Steinhart, P.C.
Attorneys for i-wireless, LLC

Enclosures

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

In the Matter of the Application of

**I-WIRELESS, LLC FOR LIMITED
DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER**

) CASE NO. WIR-T-15-01
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**APPLICATION OF I-WIRELESS, LLC FOR LIMITED DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER**

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October 19, 2015

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

In the Matter of the Application of

**I-WIRELESS, LLC FOR LIMITED
DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER**

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) CASE NO. _____
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**APPLICATION OF I-WIRELESS, LLC FOR LIMITED DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER**

I. INTRODUCTION

i-wireless, LLC (“i-wireless” or the “Company”), by its undersigned counsel, and pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”)¹, Sections 54.101 through 54.207 of the Rules of the Federal Communications Commission (“FCC”),² and the Idaho Public Utilities Commission’s (“Commission”) rules and regulations³, hereby submits this Application for Designation as an Eligible Telecommunications Carrier (“ETC”) in the State of Idaho. i-wireless seeks ETC designation solely to provide Lifeline service to qualifying Idaho consumers; it will not seek access to funds from the federal Universal Service Fund (“USF”) for the purpose of participating in the Link-Up program or providing service to high cost areas.⁴ As demonstrated herein, and as certified in Exhibit 1 to this Application, i-wireless meets all the statutory and regulatory requirements for designation as an

¹ 47 U.S.C. § 214(e)(2)

² 47 C.F.R. §§ 54.101-54.207.

³ See *In the Matter of the Application of WWC Holding Co., Inc. d/b/a Cellular-one Seeking Designation as an Eligible Telecommunications Carrier that may Receive Federal Universal Service Support*, Order No. 29841 (August 4, 2005) (“Commission Order No. 29841”).

⁴ Given that i-wireless only seeks support from the low-income program and does not seek any high-cost support, ETC certification requirements for the high-cost program are not applicable to the Company.

ETC in the State of Idaho, including the new requirements outlined in the FCC's *USF/ICC Transformation Order*⁵ and *Lifeline and Link Up Reform Order*.⁶ Rapid grant of i-wireless' request, moreover, would advance the public interest because it would enable the Company to commence much needed Lifeline service to low-income Idaho residents as soon as possible. Accordingly, the Company respectfully requests that the Commission expeditiously approve this Application for ETC designation.

All correspondence, communications, pleadings, notices, orders and decisions relating to this Application should be addressed to:

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II. BACKGROUND

A. Company Overview

i-wireless is a North Carolina Limited Liability Company.⁷ Its principal office is located at 1 Levee Way, Suite 3104, Newport, Kentucky 41071. i-wireless is a provider of commercial mobile radio service ("CMRS") throughout the United States, and provides prepaid wireless

⁵ *In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing a Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) ("*USF/ICC Transformation Order*").

⁶ *In the Matter of Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) ("*Lifeline and Link Up Reform Order*").

⁷ i-wireless was organized in the State of North Carolina on September 7, 2006.

telecommunications services to consumers by using the Sprint Spectrum, L.P. (“Sprint”) network on a wholesale basis to offer nationwide service. i-wireless obtains from Sprint the network infrastructure and wireless transmission facilities to allow the Company to operate as a Mobile Virtual Network Operator (“MVNO”), similar to TracFone Wireless, Inc. (“TracFone”) and Virgin Mobile USA, L.P. (“Virgin Mobile”), who have been granted ETC status by the Commission.⁸ i-wireless has been designated as an ETC in Arkansas, Arizona, California, Colorado, Georgia, Iowa, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Texas, Utah, Washington, West Virginia and Wisconsin, and by the FCC in Alabama, Connecticut, Delaware, District of Columbia, Florida, New Hampshire, New York, North Carolina, Tennessee, and Virginia.⁹ i-wireless currently has applications for ETC designation pending with Hawaii, Massachusetts, New Jersey, Oklahoma, and South Dakota; no such petitions have been denied.

i-wireless’ prepaid wireless services are affordable, easy to use, and attractive to low-income consumers, providing them with access to emergency services and a reliable means of communication that can be used both at home and while traveling to remain in touch with friends and family, as well as for contacting prospective employers. i-wireless offers consumers a variety of simple and affordable prepaid calling plans, easy-to-use handsets, and high-quality customer service. Given its pricing and marketing strategy and the demographics of other, similar MVNOs’

⁸ See *In the Matter of the Amended Application of TracFone Wireless, Inc. for Designation as an Eligible Telecommunications Carrier in the State of Idaho for the Limited Purposes of Offering Lifeline Service to Qualified Households*. Case No. TFW-T-09-01. Order No. 32586 (June 29, 2012) (“TracFone ETC Order”); *In the Matter of the Petition of Virgin Mobile USA for Limited Designation as an Eligible Telecommunications Carrier*. Case No. VMU-T-11-01. Final Order No. 32645 (Sept. 19, 2012) (“Virgin Mobile ETC Order”).

⁹ See *In the Matter of Federal-State Joint Board on Universal Service, i-wireless, LLC Petition for Limited Designation as an Eligible Telecommunications Carrier in the States of Alabama, Connecticut, Delaware, Florida, New Hampshire, North Carolina, New York, Tennessee, the Commonwealth of Virginia, and the District of Columbia*, WC Docket No. 09-197, Order, DA 12-934 (rel. June 13, 2012).

customers, i-wireless anticipates that many of its customers will be from low-income backgrounds and will not previously have enjoyed access to wireless service because of economic constraints, poor credit history, or sporadic employment. i-wireless does not conduct credit checks or require customers to enter into long-term service contracts as a prerequisite to obtaining wireless service.

By providing affordable wireless plans and quality customer service to consumers who are otherwise unable to afford them, or were previously ignored by traditional carriers, i-wireless will expand the availability of wireless services to many more consumers, which is the principal reason that Congress created the universal service program.

B. Proposed Lifeline Offering

i-wireless has the ability to provide all services and functionalities supported by the universal service program, as detailed in Section 54.101(a) of the FCC's Rules (47 C.F.R. § 54.101(a)) throughout Idaho. i-wireless intends to be a leader in the prepaid marketplace by offering consumers exceptional value and competitive amounts of voice usage at all price points. The Company's Lifeline service offering will provide customers with the same features and functionalities enjoyed by all other i-wireless prepaid customers, with one notable exception: prepaid Lifeline services will not require payment of an out-of-pocket fee by subscribers, but instead, i-wireless will receive support from the Lifeline program as compensation for providing those services.

i-wireless will provide Lifeline service under the brand name "Access Wireless." As Exhibit 2 demonstrates, i-wireless' Lifeline service offering proposes to give eligible customers the following Lifeline Plan choices:

1. 250 Anytime Minutes Plan (non-tribal). Eligible customers enjoy a free handset and 250 anytime minutes with unlimited text messaging per month.

2. Unlimited Talk and Text Plan (tribal only). Eligible tribal customers enjoy a free handset and unlimited voice minutes plus unlimited text messages per month.
3. Retail Discount Plan. The second option allows Lifeline eligible customers to choose from any i-wireless monthly retail plan¹⁰ at a discount – up to \$15 for non-tribal customers or up to \$40 for tribal customers.¹¹

Customers can change their plan on their monthly plan date, without penalty, should they determine that another plan better meets their needs or if their needs change. i-wireless does not impose burdensome credit checks or long-term service contracts. Furthermore, i-wireless does not assess charges for activation or connection of service, and the 250 Minute plan includes all applicable taxes and fees. Minutes are credited to a customer's account at the beginning of every 30-day cycle, which is initiated on their Lifeline activation date. A customer's handset does not have to be "on" to receive minutes, as i-wireless' operations are system-based, not handset-based. Customers may place calls to i-wireless customer service and to 911 for free, regardless of account balance or activation status.

In addition to wholly supported voice services, prepaid Lifeline customers will also receive a free handset as well as have access to voice mail, caller I.D. and call waiting services at no additional charge, even after their initial allotment of included minutes has been consumed. Customers are not bound by a local calling area requirement; all i-wireless plans come with domestic long distance at no extra charge and exceptional nationwide digital coverage on the

¹⁰ Except a Text Only Plan.

¹¹ i-wireless currently offers up to a \$15 discount for non-tribal and up to a \$40 discount for tribal; however, the Company may re-evaluate the discount applied to its retail plans based on the outcome of the FNPRM regarding a change in the federal Lifeline support amount. *See Lifeline and Link Up Reform Order* Section XIII.D. The \$15 discount consists of the Lifeline subsidy, currently \$9.25, and a Company credit. The Company credit is not available on select retail rate plans due the highly competitive nature of the market offer. In those instances, the Company credit is reflected in a reduction in the overall retail price. Currently, the Company credit is not available on the \$35 Unlimited Talk & Text retail rate plan. i-wireless commits that it will continue to offer a Lifeline discount at a minimum equal to the federal Lifeline support amount, plus any state funds, if applicable.

Nationwide Sprint PCS Network. i-wireless does not decrement minutes for balance inquiries or calls placed to customer service. i-wireless Lifeline customers will have access to the same exceptional customer care provided to retail customers. The Company contracts with a high quality, U.S. domestic customer care group whose hold time is among the lowest in the prepaid wireless industry. Additional airtime may be purchased over the phone (by calling the IVR or through customer care interface) or online; airtime cards are currently sold in denominations of \$10, \$25, \$35 and \$50 and include a set number of minutes with unlimited text messaging for a period of time and a preset amount of mobile internet access and picture mail. The chart in Exhibit 2 provides details for each card denomination.¹² i-wireless sends low and depleted balance alerts in the form of a free text message to the customer, and also alerts the customer through a free text message when minutes have been added to their account. i-wireless' prepaid offering will be an attractive alternative for consumers who need the mobility, security, and convenience of a wireless phone, but who are concerned about usage charges or long-term contracts.

C. Plan Enrollment

Customers interested in obtaining information on the Lifeline program will be directed to a toll-free telephone number and to the Company's Access Wireless website (www.accesswireless.com), which will contain information regarding the Company's Lifeline service plans, including a detailed description of the Lifeline program and eligibility criteria. Customers may then request that an enrollment form be mailed to them, or they can download a form from the internet. The certification forms, a sample of which is attached as Exhibit 3, will explain in clear, easily understandable language that:

¹² i-wireless may run promotions from time to time to increase the amount of minutes, texts and/or data included.

- (i) Lifeline is a federal benefit;
- (ii) Lifeline service is available for only one line per household;
- (iii) a household is defined, for purposes of the Lifeline program, as any individual or group of individuals who live together at the same address and share income and expenses;
- (iv) households are not permitted to receive benefits from multiple providers;
- (v) that violation of the one-per-household requirement would constitute a violation of the FCC's rules and would result in the consumer's de-enrollment from the program, and potentially, prosecution by the United States government; and
- (vi) a Lifeline subscriber may not transfer his or her service to any other individual, including another eligible low-income consumer.

i-wireless' certification form will also require all consumers, at sign up and annually thereafter, to provide the information and certifications, under penalty of perjury, required by 47 C.F.R. § 54.410(d).¹³ i-wireless will review the applicant's information, certifications, and proof documentation to determine eligibility in accordance with C.F.R. § 54.410(b)(1) and (c)(1). i-wireless will annually re-certify the continued eligibility of all of its subscribers.

D. Prevention of Waste, Fraud and Abuse

i-wireless recognizes the importance of safeguarding the USF. The Company will utilize the Universal Service Administrative Company's ("USAC") National Lifeline Accountability Database ("NLAD") to verify that Lifeline applicants do not already receive Lifeline service. i-wireless utilizes a standard electronic application tool known as the Enrollment Compliance Platform ("ECP") across all states and enrollment methods in order to ensure the highest level of compliance. The Company reviews each application in real time using its internal Review Team. This team, made up of non-commissioned employees, verifies the accuracy and consistency of the proof documentation, including proof of eligibility and proof of valid identification, for every application received. The ECP automatically conducts internal and external (NLAD) system validation checks prior to proceeding with enrollment. Based on the results of the

¹³ See *Lifeline and Link Up Reform Order* page 227-29.

documentation and system checks, the Review Team will either approve or deny the application and a decision is provided to the applicant in real-time.

Furthermore, the Company has implemented the following 60-day non-usage policy in an effort to avoid waste, fraud, and abuse of the program. i-wireless will not seek reimbursement from the USF for inactive subscribers who have not used the service for a consecutive 60-day period.¹⁴ i-wireless will notify its subscribers at service initiation about the non-transferability of the phone service, its usage requirements, and the de-enrollment and deactivation that will result following non-usage in any 60-day period of time.¹⁵ An account will be considered active if during any 60-day period the authorized subscriber does at least one of the following: makes a monthly payment; purchases minutes from the Company to add to an existing pre-paid Lifeline account; completes an outbound call; answers an incoming call from anyone other than the Company, its representative, or agent; or affirmatively responds to a direct contact from the Company confirming that he or she wants to continue.¹⁶ i-wireless will provide the subscriber 30 days' notice, using clear, easily understood language, that the subscriber's failure to use the Lifeline service within the 30-day notice period will result in service termination for non-usage; such notice may be given after 30 days of non-usage. Customers that have been deactivated may participate in the Company's Lifeline service in the future by reapplying and re-establishing eligibility.

To further protect the integrity of the USF, i-wireless has contracted with CGM, LLC of Roswell, Georgia, a lifeline service bureau, to edit all subsidy request data. CGM will process and validate the Company's subsidy data to prevent: (1) Duplicate Same-Month Lifeline

¹⁴ See *Lifeline and Link Up Reform Order* at ¶ 257.

¹⁵ See *id.*

¹⁶ See *Lifeline and Link Up Reform Order* at ¶ 261.

Subsidies (Double Dip): any name/address that is already receiving a lifeline subsidy from the Company will be automatically prevented from receiving a second lifeline subsidy in that same month; and (2) Inactive lines receiving subsidy: CGM's systems compare all subsidy requests to underlying network status to ensure that subsidies are requested only for active lines. Through the processes described above, i-wireless ensures that it does not over-request from support funds.

E. Notice of Apparent Liability

1. Background

On November 1, 2013, the FCC issued a Notice of Apparent Liability for Forfeiture ("NAL") to i-wireless. For convenience, a copy of the NAL is attached hereto as Exhibit 4. i-wireless takes very seriously the issue of alleged intra-company duplicates raised in the NAL. i-wireless believes that the NAL is both misguided and unfounded, and on January 10, 2014, i-wireless submitted its response to the NAL seeking cancellation of the proposed forfeiture ("NAL Response"). i-wireless' NAL Response contains a comprehensive factual analysis and legal defense against the allegations of the FCC. A copy of the confidential NAL Response is attached hereto as Exhibit 5.

For the following reasons, the Company cannot estimate when, if ever, the FCC might consider converting the NAL to a forfeiture order, nor what the company's response might be to the conversion. *First*, the NAL contains allegations rather than factual and legal determinations. Though it is more typical for the FCC to conduct a factual investigation prior to issuing a public NAL, it did not do so here with respect to the alleged duplicate accounts. i-wireless had no advanced notice of the FCC action. The case before the FCC involves a complex set of facts related to each subscriber enrolled in the Lifeline program. i-wireless believes that the vast

majority of the alleged duplicates would have passed the duplicate screen presently incorporated into the FCC's duplicate database – the NLAD. The FCC will need to do its fact finding in the context of the NAL proceeding and i-wireless will cooperate fully to allow for a proper determination as to whether any of the customer-attestation-supported enrollments involve a customer unlawfully receiving a duplicate benefit. Similarly, the FCC will need to consider i-wireless' legal defenses to allegations of various rule violations prior to making any formal finding.

Second, the proposed forfeiture structure is only a proposal. Its methodology is inconsistent with previous FCC rulings nor does it follow any established guideline.

Third, the FCC has five years to act on an NAL (see section E.2 below). Possible outcomes include no further public action by the agency, cancellation of the NAL, and a settlement and consent decree. Absent those outcomes, the FCC could take other action such as folding the issues raised in the NALs into a rulemaking proceeding or converting the NAL to a forfeiture order. Such an order would be subject to appeal in a United States Court of Appeals. It is impossible to predict the outcome at this point. The process of resolving an NAL typically involves extensive engagement between the recipient and the FCC. i-wireless will cooperate fully and we will seek an outcome that is fair for our customers, our employees, our owners, and the Lifeline program itself.

2. Status

i-wireless' FCC counsel has met with members of each FCC Commissioner's offices to discuss the Company's NAL Response. On January 23, 2014, John Heitmann and Josh Guyan of Kelley, Drye & Warren LLP (FCC counsel for i-wireless, LLC) had a call with Rebekah Goodheart from Commissioner Clyburn's office, as well as met with Nick Degani from

Commissioner Pai's office, Christi Barnhart from Commissioner Rosenworcel's office, and Amy Bender of Commissioner O'Reilly's office. Messrs. Heitmann and Guyan met with Amy Bender again on February 4, 2014 to further discuss the NAL, and met with Daniel Alvarez of Chairman Wheeler's office on February 6. On November 13, 2014, i-wireless and its FCC counsel, along with other members of the Lifeline Connects Coalition (companies that have joined together to protect and preserve the integrity of the Lifeline program, the "Coalition"), met with Rebekah Goodheart, Wireline Legal Advisor to Commissioner Clyburn, and with Ryan Palmer, Jonathan Lechter, and Melanie Tiano of the Wireline Competition Bureau. The Coalition discussed the pending NALs, among many other Lifeline-related issues.

On April 30, 2015, i-wireless and its FCC counsel, along with other members of the Lifeline Connects Coalition, met with Trent Harkrader, Jonathan Lechter, Garnet Hanly, Melanie Tiano and Regina Brown from the Wireline Competition Bureau and Eric Feigenbaum from the Office of Media Relations to discuss many aspects of the Lifeline program, including the fact that "instead of cancelling the various duplicate Notices of Apparent Liability (NALs) based on responses showing near perfect records at complying with a standard that should be transparent, the Commission delays (and denies) justice while continuing to ignore its own deadlines on related appeals of USAC audits" (*see May 4, 2015 Ex Parte Letter*, attached hereto as Exhibit 6). Courtesy copies of the respective Ex Parte Letters filed on January 27, 2014, February 6, 2014, February 10, 2014, and November 17, 2014, and May 4, 2015 are attached as Exhibit 6 for reference.

Thus far, the FCC has taken no further action on i-wireless' NAL and none has been indicated, despite numerous attempts by i-wireless to reach a resolution. By law, the NAL will expire five (5) years after issuance. Section 504(c) of the Communications Act, 47 U.S.C. §

504(c), provides that the FCC may not use an NAL against a licensee if that licensee has not paid the proposed fine or no court has ordered it to pay an imposed forfeiture. In the absence of voluntary payment, per Section 504(a) of the Communications Act, 47 U.S.C. § 504(a), the FCC may refer the case to the Department of Justice ("DOJ"), and pursuant to such referral, a U.S. attorney may then institute a civil suit in the name of the United States to recover the forfeiture amount subject to a trial de novo. Pursuant to 28 U.S.C. § 2462, the DOJ has five years from the date the claim "accrued" (i.e., the date of the alleged violation) to commence a collection action against the entity. Accordingly, if no payment is made voluntarily and no recovery suit is commenced within 5 years of the date of the alleged infraction, any related NAL or forfeiture order becomes inactionable and should be cancelled.

3. State ETC Approvals

Absent further action from the FCC regarding the NAL, other state commissions have been moving forward with i-wireless' ETC designation requests.¹⁷ The Oregon Public Utility Commission designated i-wireless as an ETC on September 29, 2015, taking into account the inaction of the FCC and the positive findings of other state utility commissions, and noting that sufficient safeguards have been put in place to warrant a finding that any public interest concerns resulting from the NAL have been adequately addressed.¹⁸ Likewise, both the Pennsylvania Public Utility Commission and the Nebraska Public Service Commission recently found it in the public interest to designate i-wireless as an ETC (on September 3, 2015 and June 16, 2015, respectively).¹⁹ On October 7, 2014, the Georgia Public Service Commission granted i-wireless'

¹⁷ A CD containing copies of each state ETC approval referenced in this section is attached hereto as Exhibit 7.

¹⁸ See *In the Matter of i-wireless, LLC Application for Designation as an Eligible Telecommunications Carrier in Oregon for the Purpose of Offering Lifeline Service to Qualified Households*, Docket No. UM 1509, Order No. 15-300 (entered Sep. 29, 2015) at pp.9-10, section VI.D. <http://apps.puc.state.or.us/orders/2015ords/15-300.pdf>.

¹⁹ Link to Pennsylvania Order: <http://www.puc.state.pa.us/pcdocs/1380510.docx>; Link to Nebraska Order: <http://psc.nebraska.gov/orders/telecom/C-4622.NUSF-90.7.pdf>.

request to expand its ETC service area. On May 29, 2014 the Washington Utilities and Transportation Commission (“WA UTC”) issued an order renewing i-wireless’ ETC designation (“WA Order,” attached as Exhibit 8). WA UTC Staff suggested “because there is no reasonable estimate as to when the FCC will resolve the NAL, the commission should not wait on the result of the NAL to decide on i-wireless’ ETC renewal. This issue does not change staff’s evaluation of i-wireless’ ETC Renewal petition” (WA Order ¶ 7). The WA UTC concurred with Staff, ultimately determining that i-wireless’ designation as an ETC is in the public interest and granting i-wireless’ request for continued ETC designation.

The California Public Utilities Commission (“CA PUC”) designated i-wireless as an ETC on September 11, 2014 (Resolution T-17449).²⁰ The CA PUC Staff (“CD Staff”) engaged in rigorous due diligence as part of the ETC designation process, performing research using Lexis/Nexis legal resource searches, Google Internet searches (including Better Business Bureau feedback), reviewing industry and trade publications, querying other governmental agencies, contacting the FCC and USAC, and reviewing the company’s history of operations. CD Staff also considered the NAL issued to i-wireless and noted:²¹

“The basis for the NAL resulted from USAC’s in-depth validation review in specified months...The FCC has not adopted a threshold for an acceptable level of duplicates. To assess i-wireless’ error rate, CD staff relied upon the Federal *Improper Payments Elimination and Recovery Act of 2010* (IPERA)²² as a guideline for an acceptable level of error for duplicate enrollments. The IPERA asserts that “significant” risk exists when improper program payments exceed \$10,000,000 of all payments made in a fiscal year or 1.5% of a fiscal year’s program outlay. Absent an FCC threshold, CD staff finds that the 1.5% provides a reasonable guideline for an acceptable level of duplication and based on this benchmark, CD finds that i-wireless’ 0.65% duplicate rate does not rise to the

²⁰ Link to California Order: <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M107/K222/107222695.PDF>

²¹ Resolution T-17449, p.17-18. Note, the reference to 0.65% duplicate rate is incorrect. Based on each of USAC’s findings (from the in-depth validation reviews that were the subject of the NAL), i-wireless had an effective duplicate detection rate of 99.74%, and therefore a duplicate rate of 0.26%.

²² 31 U.S.C.3321 note, July 22, 2010.

level of a “significant” risk that justifies a denial of their ETC designation request.

As an additional safeguard against waste, fraud, and abuse, in April 2014, USAC launched the *National Lifeline Accountability Database* (NLAD) where all carriers must upload Lifeline subscriber information. USAC’s NLAD process prohibits companies from entering the same name twice by blocking duplicate enrollment attempts via live Internet connections.”

In summary, California’s due diligence review, including consideration of the NAL, “did not uncover any fitness issues to deny approval of i-wireless’s ETC request” and California found it consistent with the public interest to designate i-wireless as an ETC.²³ i-wireless asserts that California’s analysis is equally applicable to i-wireless’ request for ETC designation in Idaho.

F. Biennial Audit

In accordance with 47 C.F.R. § 54.420, i-wireless recently underwent its third party biennial audit to assess the Company's overall compliance with respective FCC rules (47 C.F.R. § 54, Subpart E) and the company's internal controls regarding these regulatory requirements. The results of i-wireless’ biennial audit are attached hereto as Exhibit 9.

III. THE COMMISSION HAS JURISDICTION TO DESIGNATE WIRELESS ETCs

Section 214(e)(2) of the Act (47 U.S.C. § 214(e)(2)) provides state public utility commissions with the “primary responsibility” for the designation of ETCs. Although Section 332(c)(3)(A) of the Act prohibits states from regulating the entry of or the rates charged by any provider of commercial mobile service or any private mobile service, this prohibition does not allow states to deny wireless carriers ETC status.²⁴ Therefore, the Commission has the authority

²³ Resolution T-17449, p.18

²⁴ See *Federal-State Joint Board on Universal Service, First Report and Order*, 12 FCC Rcd 8776, 8858-59, ¶ 145 (1997) (“USF Order”).

to designate i-wireless as an ETC. Pursuant to this authority, the Commission has designated numerous carriers as ETCs in the State of Idaho, including many wireless carriers.²⁵

Under the Act, a state public utility commission with jurisdictional authority over ETC designations must designate a common carrier as an ETC if the carrier satisfies the requirements of Section 214(e)(1). i-wireless recognizes that Section 214(e)(1)(A) of the Act states that ETCs shall offer services, at least in part, over their own facilities and that Section 54.201(i) of the FCC's Rules (47 C.F.R. § 54.201(i)) prohibits state commissions from designating as an ETC a telecommunications carrier that offers services exclusively through the resale of another carrier's services. However, on April 1, 2009, i-wireless filed with the FCC a petition requesting that the FCC exercise its forbearance authority under Section 10 of the Act (47 U.S.C. § 160) with respect to the facilities-based service requirement Lifeline-only ETC designation.²⁶ The FCC granted the *Petition for Forbearance* for the purposes of participating in the Lifeline program in an Order dated June 25, 2010. Section 10(e) of the Act (47 U.S.C. § 160(e)) provides: "[a] State commission may not continue to apply or enforce any provision of this chapter that the [Federal Communications] Commission has determined to forbear from applying under subsection (a) of this section." As such, the Commission is required by Section 10(e) to act in accordance with the FCC's grant of forbearance, and therefore, may not apply the facilities-based requirement to i-wireless. Therefore, the Commission has the authority to act under Section 214(e)(2) of the Act and to grant i-wireless' request for designation as an ETC throughout the State of Idaho.

²⁵ See e.g., *TracFone ETC Order* and *Virgin Mobile ETC Order*.

²⁶ See *i-wireless, LLC Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, CC Docket No. 96-45, filed Apr. 1, 2009, ("*Petition for Forbearance*"), Order, FCC 10-117 (rel. June 25, 2010) ("*i-wireless Forbearance Order*"). A copy of the *i-wireless Forbearance Order* is attached hereto as Exhibit 10.

A. The ETC Designation Request Is Consistent with Recent Commission Precedent

i-wireless' request for ETC designation to participate in the Lifeline program is consistent with the Commission's decisions designating TracFone and Virgin Mobile as ETCs.²⁷ In its decisions, the Commission determined that designation of a prepaid wireless provider as an ETC would serve the public interest. i-wireless requests that the Commission expeditiously process its ETC Application so that it can quickly commence providing qualifying low-income Idaho customers with affordable USF-supported wireless services during these challenging economic times for all state residents. Designation of i-wireless as an ETC would further competition for wireless Lifeline services and would offer eligible consumers an additional choice of providers for accessing telecommunications services, representing a significant step towards ensuring that all low-income consumers share in the many benefits associated with access to wireless services.

IV. I-WIRELESS SATISFIES THE REQUIREMENTS FOR DESIGNATION AS AN ETC

Section 254(e) of the Act provides that "only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific federal universal service support." Section 214(e)(2) of the Act authorizes state commissions, such as the Commission, to designate ETC status for federal universal service purposes and authorizes the Commission to designate wireless ETCs.²⁸ Section 214(e)(1) of the Act and Section 54.201(d) of the FCC's rules provide that applicants for ETC designation must be common carriers that will offer all of the services supported by universal service, either using their own facilities or a combination of their own facilities and the resale of another carrier's services, except where the FCC has forborne from the "own facilities" requirement. Applicants also must commit to advertise the

²⁷ See *TracFone ETC Order*; see also *Virgin Mobile ETC Order*

²⁸ See *USF Order*, at 8858-59, ¶ 145.

availability and rates of such services.²⁹ As detailed below, i-wireless satisfies each of the above-listed requirements.

A. i-wireless Will Provide Service Consistent with the FCC's Grant of Forbearance from Section 214's Facilities Requirements

In the *i-wireless Forbearance Order*, The FCC conditionally granted i-wireless' *Petition for Forbearance* from the facilities requirement, "given the importance of public safety and in light of the fact that a Lifeline ETC is generally a low-income customer's only connection to the public switched telephone network."³⁰ The FCC further explained that "requiring a Lifeline provider to own the facilities it uses to offer service does not necessarily further the statutory goal of the low-income program."³¹

The FCC specifically conditioned its grant of forbearance on i-wireless as follows:

(a) i-wireless providing its Lifeline customers with basic 911 and enhanced 911 ("E911") access regardless of activation status and availability of prepaid minutes; (b) i-wireless providing its new Lifeline customers with E911-compliant handsets and replacing, at no additional charge to the customer, noncompliant handsets of existing customers who obtain Lifeline-supported service; (c) i-wireless complying with conditions (a) and (b) as of the date it provides Lifeline service; (d) i-wireless obtaining a certification from each Public Service Answering Point ("PSAP") where i-wireless seeks to provide Lifeline service confirming that i-wireless provides its customers with 911 and E911 access or self-certifying that it does so if certain conditions are met; (e) i-wireless requiring each customer to self-certify at time of service activation and annually thereafter that he or she is the head of household and receives Lifeline-supported service only from i-wireless; (f) i-wireless establishing safeguards to prevent its customers from receiving multiple i-wireless Lifeline subsidies at the same address, and (g) i-wireless dealing directly with the customer to certify and verify the customer's Lifeline eligibility. The FCC required i-wireless to submit a plan describing the measures it would take to implement each of these conditions.³²

²⁹ See 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.201(d)(2).

³⁰ *i-wireless Forbearance Order* ¶ 11.

³¹ *Id.* ¶ 15.

³² See *i-wireless Forbearance Order* ¶ 16.

In accordance with the *i-wireless Forbearance Order*, i-wireless filed its Compliance Plan which the FCC approved on October 21, 2011.³³ A copy of its Compliance Plan, as approved, is attached hereto as Exhibit 11. i-wireless commits to providing Lifeline service in Idaho in accordance with its Compliance Plan and in accordance with the *Lifeline and Link Up Reform Order*.

Consistent with paragraph 383 of the *Lifeline and Link Up Reform Order*, i-wireless will no longer follow the PSAP certification process outlined in the Company's forbearance order and Compliance Plan. i-wireless will, however, continue to comply with applicable 911/E911 public safety obligations, including 47 C.F.R. § 20.18(m), the requirement to provide 911-enabled handsets, and any state-imposed requirements.³⁴

B. i-wireless Is a Common Carrier

CMRS providers like i-wireless are treated as common carriers.³⁵

C. i-wireless Will Provide All Required Supported Services

Through its wholesale arrangements with Sprint, i-wireless is able to provide all of the services and functionalities required by Section 54.101(a) and Section 54.202(a) of the FCC's Rules (47 C.F.R. § 54.101(a) and 47 C.F.R. § 54.202(a)), including the following:

1. Voice Grade Access to the Public Switched Telephone Network

i-wireless provides voice grade access to the public switched telephone network

³³ See i-wireless LLC's Revised Compliance Plan, CC Docket No. 96-45, WC Docket No. 09-197 (filed Sept. 9, 2011) ("Compliance Plan"); *i-wireless, LLC Petition for Forbearance from 47 USC. § 214(e)(1)(A)*, CC Docket No. 96-45, WC Docket No. 09-197, DA 11-1763, 2011 WL 5038791 (rel. Oct. 21, 2011) ("Compliance Plan Order").

³⁴ See *Lifeline and Link-up Reform Order*, ¶ 375.

³⁵ *Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services*, GN Docket No. 93-252, Second Report and Order, 9 FCC Rcd 1411, 1425 ¶ 37, 1454-55 ¶ 102 (1994) (wireless resellers are included in the statutory "mobile services" category, and providers of cellular service are common carriers and CMRS providers); 47 U.S.C. § 332(c)(1)(A) ("mobile services" providers are common carriers); see also *PCIA Petition for Forbearance for Broadband PCS*, WT Docket No. 98-100, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 13 FCC Rcd 16857, 16911 ¶ 111 (1998) ("We concluded [in the *Second Report and Order*] that CMRS also includes the following common carrier services: cellular service, ... all mobile telephone services and resellers of such services.")

("PSTN") through the purchase of wholesale CMRS services from Sprint.

2. Minutes of Use for Local Service

As part of the voice grade access to the PSTN, an ETC must provide minutes of use for local service at no additional charge to end-users. The FCC has not specified a minimum amount of local usage that an ETC must offer.³⁶ i-wireless offers a variety of rate plans that provide its customers with minutes of use for local service at no additional charge.

3. Access to Emergency Services

i-wireless provides 911 and E911 access for all of its customers to the extent the local government in its service area has implemented 911 or E911 systems. i-wireless also complies with the FCC's regulations governing the deployment and availability of E911 compatible handsets.

4. Toll Limitation for Qualified Low-Income Customers

In its *Lifeline and Link Up Reform Order*, the FCC stated that toll limitation would no longer be deemed a supported service.³⁷ "ETCs are not required to offer toll limitation service to low-income consumers if the Lifeline offering provides a set amount of minutes that do not distinguish between toll and non-toll calls."³⁸ Nonetheless, i-wireless' offerings inherently allow Lifeline subscribers to control their usage, as its wireless service is offered on a prepaid, or pay-as-you-go, basis. i-wireless' service, moreover, is not offered on a distance-sensitive basis and local and domestic long distance minutes are treated the same. i-wireless will not seek reimbursement for toll limitation service.

³⁶ See e.g., *In the Matter of Federal-State Joint Board on Universal Service*, Recommended Decision 15 FCC Rcd 7331 (2002).

³⁷ See *Lifeline and Link Up Reform Order* at ¶ 367.

³⁸ See *Lifeline and Link Up Reform Order* at ¶ 49.

5. Other Services

While no longer required by 47 C.F.R. § 54.101(a), i-wireless provides dual tone multi-frequency (“DTMF”) signaling to expedite the transmission of call set up and call detail information throughout the network, single party service for the duration of each telephone call and not multi-party (or “party-line”) services, access to operator services, the ability to make interexchange, or long distance, telephone calls, and access to directory assistance services by dialing “411” from the provided wireless handsets.

D. i-wireless Will Advertise the Availability of Supported Services

i-wireless will advertise the availability and rates for the services described above using media of general distribution as required by 47 C.F.R. § 54.201(d)(2) of the FCC’s regulations. i-wireless’ advertising will comply with the requirements set forth in the *Lifeline and Link Up Reform Order*.³⁹ The Company will engage in advertising campaigns specifically targeted to reach those likely to qualify for Lifeline service, using methods such as print advertisements and online media.⁴⁰ i-wireless may also promote the availability of its Lifeline offering by distributing brochures at various state and local social service agencies, and may partner with nonprofit assistance organizations in order to inform customers of the availability of its Lifeline service.

i-wireless will explain in clear, easily understood language the following disclosures in all marketing materials related to the supported service: (1) the offering is a Lifeline-supported service; (2) only eligible consumers may enroll in the program; (3) the program is limited to one benefit per household, consisting of either wireline or wireless service; and (4) Lifeline is a government benefit program. i-wireless’ website and printed collateral will explain the

³⁹ See *Lifeline and Link Up Reform Order* at Section VII.F.

⁴⁰ See attached Exhibit 12 for a sample advertisement.

documentation necessary for enrollment, and the details of i-wireless' plans. Such collateral and website information, as well as its application, will make clear that consumers who willfully make false statements in order to obtain the benefit can be punished by fine or imprisonment or can be barred from the program.⁴¹ For broadcast advertisements and outdoor signs, and any other situation in which inclusion of documentation information and warnings against willful false statements are not practicable, i-wireless will include the URL link for its website where disclosures will be listed. Additionally, i-wireless will disclose the company name under which it does business and the details of its Lifeline service offerings in any Lifeline-related marketing and advertising.⁴²

Statistics suggest there are many eligible customers who are not yet aware of the programs. According to the best data available to the Company, as of December 31, 2011, only between 10-20% of consumers eligible for Lifeline Services in the State of Idaho were being provided such services.⁴³ i-wireless believes that its advertising and outreach efforts will inform consumers of the availability of Lifeline service in a manner that will result in increased participation by qualified consumers in the Lifeline program.

E. i-wireless Requests Designation Throughout Its Service Area in Idaho

i-wireless is not a rural telephone company as defined in Section 153(37) of the Act (47 U.S.C. § 153(37)). Accordingly, the Company is required to describe the geographic area(s) within which it requests designation as an ETC. i-wireless requests designation as an ETC that is statewide in scope, subject to the existence of its underlying carrier's facilities and corresponding

⁴¹ See *Lifeline and Link Up Reform Order* at ¶ 275.

⁴² See *id.*

⁴³ See attached Exhibit 13, 2011 Lifeline Participation Rates by State, which was obtained from USAC, an independent not-for-profit corporation designated as the administrator of the federal Universal Service Fund by the FCC. USAC administers Universal Service Fund (USF) programs for high cost companies serving rural areas, low-income consumers, rural health care providers, and schools and libraries.

coverage.⁴⁴ i-wireless understands that its service area may overlap with rural carriers in Idaho, but maintains that the public interest factors described below justify its designation in these carriers' service areas, especially because it seeks ETC designation solely to utilize USF funding to provide Lifeline service to qualified low-income consumers. It does not seek and will not accept Link-Up or high cost support.

F. Service Commitment Throughout the Proposed Designated Service Area

i-wireless provides service in Idaho by reselling service which it obtains from its underlying facilities-based provider. The provider's network is operational and largely built out. Thus, i-wireless will be able to commence offering its Lifeline service to all locations served by its underlying carrier very soon after receiving approval from the Commission. i-wireless commits to comply with the service requirements applicable to the support that it receives.⁴⁵

G. Five-Year Network Improvement Plan

As set forth in the *Lifeline and Link Up Reform Order*, a common carrier seeking designation as a Lifeline-only ETC is not required to submit a five-year network improvement plan as part of its application for designation as an ETC.⁴⁶

H. Ability to Remain Functional in Emergency Situations

In accordance with 47 CFR §54.202(a)(2), i-wireless has the ability to remain functional in emergency situations. Through its agreement with its underlying carrier, i-wireless provides to its customers the same ability to remain functional in emergency situations as currently provided by the ILECs to their own customers, including access to a reasonable amount of back-up power to ensure functionality without an external power source, the ability to reroute traffic around

⁴⁴ A list of wire centers in which the Company requests ETC designation is attached hereto as Exhibit 14.

⁴⁵ See *Lifeline and Link Up Reform Order* at page 208, revised § 54.202(a)(1)(i).

⁴⁶ See *Lifeline and Link Up Reform Order* at ¶ 386.

damaged facilities, and the capability of managing traffic spikes resulting from emergency situations.

I. Commitment to Consumer Protection and Service Quality

Under FCC guidelines, an ETC applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards.⁴⁷ The Company commits to satisfying all such applicable state and federal requirements related to consumer protection and service quality standards. Specifically, i-wireless commits to comply with the Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service.

J. Local Usage Requirement

An applicant for ETC designation is no longer required to demonstrate that it offers a local usage plan that is "comparable" to the plan offered by the ILEC in the relevant service territory.⁴⁸ Nevertheless, not only will the Company's offering be comparable to the underlying ILEC plans, but it also will exceed them in several respects. i-wireless will offer customers a certain amount of service free of charge. In contrast to the ILEC plans, which contain relatively small local calling areas, i-wireless customers can use these free minutes to place calls statewide (and even nationwide) because i-wireless does not constrict customers' use by imposing a local calling area requirement. i-wireless will also provide Lifeline customers with E911 capabilities and access to voice mail, caller I.D., and call waiting services at no cost. The very nature of the wireless phone, i.e. mobility, has a tremendous benefit to many consumers, a benefit to which a monetary value cannot be easily assigned.

⁴⁷ See 47 C.F.R. § 54.202(a)(3).

⁴⁸ See *Lifeline and Link Up Reform Order* at page 208, revised § 54.202(a).

K. Equal Access Requirement

FCC Rules no longer require an applicant for ETC status to provide a certification that it acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area.⁴⁹

L. i-wireless is Financially and Technically Capable

i-wireless is financially and technically capable of providing Lifeline-supported services. i-wireless is 50% owned by Genie Global, Inc. and 50% owned by The Kroger Co., the nation's largest grocery retail chain and the second largest retailer overall. i-wireless is a fully consolidated variable interest entity of The Kroger Co., as defined by The Sarbanes-Oxley Act. The Kroger Co. is a publicly traded company with \$110 Billion in sales and is 17th on Fortune's 500 list.⁵⁰ i-wireless has been in business for over 8 years and successfully provides wireless services throughout the United States, and is the Nation's 3rd largest Lifeline provider, approved to operate in 38 jurisdictions. i-wireless has not been subject to enforcement action or ETC revocation proceedings in any state. i-wireless is financially able to provide Lifeline-supported services; the Company does not, and does not intend to, offer exclusively Lifeline-supported services—and is therefore not exclusively dependent on universal service support for its revenue. Furthermore, the senior management of i-wireless has great depth in the telecommunications industry and offers extensive telecommunications business technical and managerial expertise to the Company.⁵¹ i-wireless will be providing resold wireless service, and therefore will also rely upon the managerial and technical expertise of its underlying carrier.

⁴⁹ See *id.*

⁵⁰ As a fully consolidated entity of Kroger, i-wireless' finances are incorporated into the consolidated financial statements of Kroger. For Kroger's most recent SEC 10-K, see <http://ir.kroger.com/doc.aspx?IID=4004136&DID=31921013>.

⁵¹ See Exhibit 15 for key management bios.

M. i-wireless Will Comply with Certification and Verification Requirements

Section 54.410 of the FCC's Rules requires ETCs to certify and verify a Lifeline customer's initial and continued eligibility. i-wireless will certify and verify consumer eligibility in accordance with the FCC's requirements and with *Commission Order No. 29841*.⁵² In Idaho, i-wireless intends to verify Lifeline eligibility by relying on consumers' certifications and proof documentation in accordance with 47 C.F.R. § 54.410(b)(1) and (c)(1), in lieu of a state eligibility database.

N. i-wireless Will Comply With All Regulations Imposed By The Commission

By this Application, i-wireless hereby asserts its willingness and ability to comply with all the rules and regulations that the Commission may lawfully impose upon the Company's provision of service contemplated by this Application, to the extent such provisions apply to a prepaid wireless provider. Upon Commission request, the Company is prepared to answer questions or present additional testimony or other evidence about its services within the state. i-wireless commits that 100% of federal universal service funds will flow through directly to Lifeline customers. The Company commits to comply with the reporting requirements adopted by the Commission.⁵³

As the Company is not seeking high-cost support for its wireless service, it hereby requests a waiver of the following Commission Rules: *Commission Order No. 29841* Section B.1 (two-year network improvement and maintenance plan based on high-cost support) and *Commission Order No. 29841* Section C.1 (annual report of certain information based on high-cost support). Because the Company is not seeking high-cost support, these rules are not applicable and, therefore, should be waived.

⁵² See *Commission Order No. 29841* at Appendix, Section D.

⁵³ See *Commission Order No. 29841* at Appendix, Section C.

V. DESIGNATION OF I-WIRELESS AS AN ETC WOULD PROMOTE THE PUBLIC INTEREST

One of the principal goals of the Act, as amended by the Telecommunications Act of 1996, is “to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies” to all citizens, regardless of geographic location or income.⁵⁴ Designation of i-wireless as an ETC in Idaho will further the public interest by providing Idaho consumers, especially low-income consumers, with low prices and high quality services. Many low-income customers in Idaho have yet to reap the full benefits of the intensely competitive wireless market. Whether because of financial constraints, poor credit history or intermittent employment, these consumers often lack the countless choices available to most consumers.

The instant request for ETC designation must be examined in light of the Act’s goal of providing low-income consumers with access to telecommunications services. The primary purpose of universal service is to ensure that consumers—particularly low-income consumers—receive affordable and comparable telecommunications services. Given this context, designating i-wireless as an ETC would significantly benefit low-income consumers eligible for Lifeline service in the State of Idaho — the intended beneficiaries of universal service.

A. Advantages of i-wireless’ Service Offering

The public interest benefits of the Company’s wireless service include larger local calling areas (as compared to traditional wireline carriers), the convenience and security afforded by mobile telephone service, the opportunity for customers to control cost by receiving a preset amount of monthly airtime at no charge, the ability to purchase additional usage at flexible and affordable amounts in the event that included usage has been exhausted, 911 service and, where

⁵⁴ *Telecommunications Act of 1996*, Pub. L. No. 104-104, 110 Stat. 56.

available, E911 service in accordance with current FCC requirements. The Company's Lifeline customers will receive the same high-quality wireless services and exceptional customer service provided to all Company customers. i-wireless' Lifeline rate plans will not only allow feature-rich mobile connectivity for qualifying subscribers at no cost to the subscriber, but also will bring a variety of rate plans into the reach of Lifeline customers that are comparable in minutes and features to those available to post-paid wireless subscribers – but at low Lifeline rates and without the burden of credit checks or contracts.

i-wireless' Lifeline program will provide low-income Idaho residents with the convenience and security offered by wireless services—even if their financial position deteriorates. The economic circumstances indicate that low-income individuals, now more than ever, can greatly benefit from the advantages offered by the Company's Lifeline service, thus allowing those adversely impacted by the failing economy or job loss to have access to a free wireless service to assist in emergency situations, facilitate job search efforts, and to maintain contact with family members.

It is also a commonly accepted fact that in today's market all consumers, including qualified Lifeline customers, view the portability and convenience of wireless service not as a luxury, but as a necessity. Mobile service allows children to reach their parents, wherever they may be, allows a person seeking employment the ability to be contacted by potential employers, and provides end users with the ability to contact emergency service providers, regardless of location. Providing i-wireless with the authority necessary to offer discounted Lifeline service to those most in danger of losing wireless service altogether undoubtedly promotes the public interest.

Moreover, grant of i-wireless' Application will serve the public interest in increasing the number of ETCs in Idaho. By granting ETC status to i-wireless, the Commission will enable i-wireless to increase the number of Idaho residents receiving Lifeline support, thereby increasing the amount of USF money flowing into Idaho. In sum, ETC designation in the State of Idaho would enable i-wireless to provide all of the public benefits cited by the FCC in its analysis in the *Virgin Mobile Order*. Namely, i-wireless would provide "increased consumer choice, high-quality service offerings, and mobility,"⁵⁵ as well as the safety and security of effective 911 and E911 services.⁵⁶

B. The Benefits of Competitive Choice

The benefits to consumers of being able to choose from among a variety of telecommunications service providers have been acknowledged by the FCC for more than three decades.⁵⁷ Designation of i-wireless as an ETC will promote competition and innovation, and spur other carriers to target low-income consumers with service offerings tailored to their needs and to improve their existing networks to remain competitive, resulting in improved services to consumers. Designation of i-wireless as an ETC will help assure that quality services are available at "just, reasonable, and affordable rates" as envisioned in the Act.⁵⁸ Introducing i-wireless into the market as an additional wireless ETC provider will afford low-income Idaho residents a wider choice of providers and available services while enhancing a competitive marketplace as ETCs compete for a finite number of Lifeline-eligible customers. Increasing the competitive marketplace of providers has the potential to effectively increase the penetration rate and reduce the number of individuals not connected to the PSTN.

⁵⁵ See *Virgin Mobile Order*, 24 FCC Rcd at 3395 ¶ 38.

⁵⁶ See *Id.* at 3391 ¶ 23.

⁵⁷ See, e.g., *Specialized Common Carrier Services*, 29 FCC Rcd 870 (1971).

⁵⁸ See 47 U.S.C. § 254(b)(1).

C. Impact on the Universal Service Fund

i-wireless' request for designation as an ETC solely for Lifeline purposes would not unduly burden the USF or otherwise reduce the amount of funding available to other ETCs. With Lifeline, ETCs only receive support for customers they obtain. The amount of support available to an eligible subscriber is exactly the same whether the support is given through a company such as i-wireless or the Incumbent LEC operating in the same service area. i-wireless will only increase the amount of USF Lifeline funding in situations where it obtains Lifeline customers not enrolled in another ETC's Lifeline program. By implementing the safeguards set forth in the *Lifeline and Link-up Reform Order*, i-wireless will minimize the likelihood that its customers are not eligible or are receiving duplicative support either individually or within their household. Significantly, the Company's designation as an ETC will not increase the number of persons eligible for Lifeline support. i-wireless' ability to increase the Lifeline participation rate of qualified low-income individuals will further the goal of Congress to provide all individuals with affordable access to telecommunications service, and thus any incremental increases in Lifeline expenditures are far outweighed by the significant public interest benefits of expanding the availability of affordable wireless services to low-income consumers. According to the FCC, "the additional choice and service options of another wireless reseller offering a service for low-income consumers represents a significant benefit for consumers and is in the public interest," and "A new entrant should incent existing wireless reseller ETCs to offer better service and terms to their customers, which provides additional evidence that forbearance in the context of the Lifeline program outweighs the potential costs."⁵⁹

⁵⁹ See *i-wireless Forbearance Order* at ¶ 19.

VI. ANTI-DRUG ABUSE CERTIFICATION

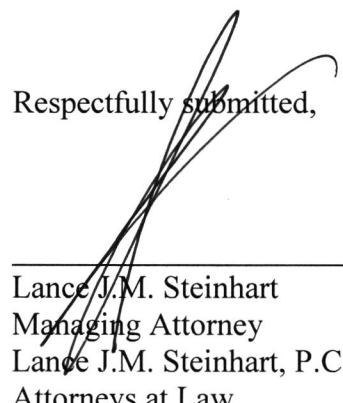
i-wireless certifies that no party to this Application is subject to denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

VII. CONCLUSION

Based on the foregoing, designation of i-wireless as an ETC in the State of Idaho accords with the requirements of Section 214(e)(2) of the Act and is in the public interest.

WHEREFORE, i-wireless respectfully requests that the Commission promptly designate i-wireless as an ETC in the State of Idaho.

Respectfully submitted,



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Attorneys for i-wireless, LLC

October 19, 2015

EXHIBIT 1

Certification of John Willis, COO of i-wireless, LLC


State of Kentucky)

County of Campbell)

Certification

Personally appeared before the undersigned, an officer duly authorized to administer oaths, John Willis, who first being duly sworn, deposes and states that he is the Chief Operating Officer of i-wireless, LLC, Applicant in this application, and has read the foregoing and knows the contents thereof, and confirms that the statements made herein are true to the best of his knowledge and belief.


Dated: 9/3/15



John Willis, Chief Operating Officer

Subscribed and sworn to before me, a Notary Public, this 3 day of September 2015.

(Notary Seal)



(Signature of person authorized to administer oath)

My Commission Expires: 8-4-2019



ERIC J. SCHIMPF
Notary Public, Kentucky
State At Large
My Commission Expires
August 4, 2019
Notary ID# 539268

	Access Wireless Lifeline Plans		Retail Discount Plans*			
	250 Free Minutes Plan (Non-Tribal)	Unlimited Talk & Text Plan (Tribal-Only)	250 Minute Talk (with Text & Data)	Unlimited Talk, Text, & 500MB Data	Unlimited Talk, Text, & 2GB Data	Unlimited Talk, Text, & 3GB Data
Voice Mins	250	Unlimited	250	Unlimited	Unlimited	Unlimited
Text (SMS)	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited
Web	n/a	n/a	250MB	500MB	2.0GB	3.0GB
Additional Min (per)	\$0.10	n/a	\$0.10	n/a	n/a	n/a
Free Handset	X	X	X	X	X	X
Local Calls	X	X	X	X	X	X
Nationwide Long Distance	X	X	X	X	X	X
Voicemail, Caller ID, Call Waiting	X	X	X	X	X	X
Free 911	X	X	X	X	X	X
Free 611	X	X	X	X	X	X
Free Balance Inquiries	X	X	X	X	X	X
Rollover Allowed	X	X	X	X	X	X
Text Included	X	X	X	X	X	X
Data Included			X	X	X	X
Retail Cost	\$ 15.00	\$ 34.25	\$ 25.00	\$ 35.00	\$ 50.00	\$ 75.00
Federal Subsidy	\$ 9.25	\$ 9.25	\$ 9.25	\$ 9.25	\$ 9.25	\$ 9.25
Company Credit	\$ 5.75	\$ -	\$ 5.75	\$ -	\$ 5.75	\$ 5.75
Non-Tribal Lifeline Consumer Cost	\$ -	n/a	\$ 10.00	\$ 25.75	\$ 35.00	\$ 60.00
Tribal Subsidy	n/a	\$ 25.00	n/a	\$ 25.00	\$ 25.00	\$ 25.00
Tribal Lifeline Consumer Cost	n/a	\$ -	n/a	\$ 0.75	\$ 10.00	\$ 35.00

*currently available; see <http://www.krogeriwireless.com/shop/plans> for up-to-date retail plans

Airtime Card Denominations:

Amount	Talk Minutes	Unlimited Text	Data	Picture Mail
\$10	150	10 days	100MB	25
\$25	300	30 days	500MB	50
\$35	Unlimited	30 days	500MB	100
\$50	Unlimited	30 days	1G	100

IDAHO APPLICANT INFORMATION

First Name: _____ MI: _____ Last Name: _____

Residential Address: _____ Apt/Floor/Other _____

(NO P.O. BOXES, MUST BE YOUR PRINCIPAL ADDRESS)

This address is: ☐ Permanent ☐ Temporary ☐ Multi-Household

Mailing Address: _____ Apt/Floor/Other _____

City: _____ State: _____ ZIP Code: _____

Contact Telephone Number: _____ Email Address: _____

Date of Birth: _____ Last 4-digits of Social Security Number (or full Tribal ID Number): XXX-XX-_____

I am a Tribal Resident: ☐ Yes ☐ No

QUALIFYING PROGRAM INFORMATION

Applicant must provide documented proof of participation in the program indicated below or proof of income.

- | | |
|---|---|
| <input type="checkbox"/> Bureau of Indian Affairs General Assistance | <input type="checkbox"/> National School Lunch Program's Free Lunch Program (NSLP) |
| <input type="checkbox"/> Federal Public Housing Assistance (FPHA)/Section 8 | <input type="checkbox"/> Supplemental Nutrition Assistance Program (SNAP)/Food Stamps |
| <input type="checkbox"/> Food Distribution Program on Indian Reservations | <input type="checkbox"/> Supplemental Security Income (SSI) |
| <input type="checkbox"/> Headstart (meeting income-qualifying standards) | <input type="checkbox"/> Temporary Assistance for Need Families (TANF) |
| <input type="checkbox"/> Low Income Home Energy Assistance Program (LIHEAP) | <input type="checkbox"/> Tribally Administered Temporary Assistance for Needy Families (TANF) |
| <input type="checkbox"/> Medicaid | |

Important Information About the Lifeline Program

Access Wireless is a service provider for the government-funded Lifeline Assistance Program. Lifeline service is provided by i-wireless, LLC, d/b/a Access Wireless, which is an eligible telecommunications carrier. Lifeline service is non-transferable. Only one Lifeline discount may be received per household. A household is defined, for the purposes of the Lifeline program, as any individual or group of individuals who live together at the same address and share income and expenses. A household is not permitted to receive benefits from multiple providers. Violation of the one-per-household rule constitutes a violation of the FCC's rules and will result in the customer's de-enrollment from Lifeline and potentially prosecution from the United States government. Only eligible customers may enroll in the program. Consumers who willfully make a false statement in order to obtain the Lifeline benefit can be punished by fine or imprisonment or can be barred from the program. Customers must present proper documentation confirming eligibility for the Lifeline program. Your information will be validated against public records and any discrepancies could result in delays in your approval or rejection of service.

Activation & Usage Requirements

This service is a prepaid service and you must activate it by dialing 611 from your Access Wireless handset. To keep your account active, you must use your Lifeline service at least once during any 60-day period by completing an outbound call, purchasing additional minutes from Access Wireless, answering an inbound call from someone other than Access Wireless, or by responding to a direct contact from Access Wireless confirming that you want to continue receiving Lifeline service from them. If your service goes unused for 60 days, you will no longer be eligible for Lifeline benefits and your service will be suspended (allowing only 911 calls and calls to the Access Wireless Customer Care center) subject to a 30-day cure period during which you may use the service (as described above) or contact Access Wireless to confirm that you want to continue receiving your Lifeline service from them.

☐ **I hereby certify that I have read and understood the disclosures listed above regarding activation and usage requirements and important information on the Lifeline program.**

I hereby certify, under penalty of perjury, that: (INITIAL BY EACH LINE)

- _____ (1) I meet the program-based eligibility criteria for receiving Lifeline service with an annual household income at or below 135% FPG, and have provided documentation of eligibility if required.
- _____ (2) I will notify Access Wireless within 30 days if for any reason, I no longer satisfy the criteria for receiving Lifeline including, as relevant, if I no longer meet the income-based or program-based eligibility criteria, I begin receiving more than one Lifeline benefit, or another member of my household is receiving a Lifeline benefit. I understand that I may be subject to penalties if I fail to follow this requirement.
- _____ (3) I am not listed as a dependent on another person's tax return (unless over the age of 60).
- _____ (4) I attest, to the best of my knowledge, that no one in my household, including myself, is receiving a Lifeline-supported service from any other landline or wireless company such as Qwest Corporation, Assurance Wireless, or Syringa Wireless.
- _____ (5) The residential address listed above is my primary residence, not a second home or business.
- _____ (6) If I move to a new address, I will provide that new address to Access Wireless within 30 days.
- _____ (7) If I provided a temporary residential address to Access Wireless, I will verify my temporary residential address as required by law.
- _____ (8) I acknowledge that providing false or fraudulent information to receive Lifeline benefits is punishable by law.
- _____ (9) I acknowledge that I may be required to re-certify my continued eligibility for Lifeline at any time, and my failure to re-certify as to my continued eligibility within 30 days will result in de-enrollment and the termination of my Lifeline benefits.
- _____ (10) The information included in this certification form is true and correct to the best of my knowledge.
- _____ (11) If Access Wireless finds that I am already receiving a Lifeline discount benefit from another provider, I agree that I want to transfer my Lifeline discount benefit from that Lifeline provider to Access Wireless. I understand that once the transfer is complete, I will lose my Lifeline Program benefit with any other Lifeline provider from which I am currently receiving a Lifeline discount. Access Wireless has explained to me and I understand that I may not have multiple Lifeline Program benefits with the same or different providers.
- _____ (12) I certify that the individual named on the documentation used to demonstrate program participation or income eligibility is part of my household.
- _____ (13) *If Applicable:* I reside on Federally recognized Tribal Lands.

AUTHORIZATION & CERTIFICATIONS (INITIAL BY EACH LINE)

- _____ (1) I hereby authorize Access Wireless to access any records to verify my statements on this form and to confirm my eligibility for the Lifeline program. I also authorize Access Wireless to release any records required for the administration of the Lifeline program, including name, telephone number, address, date of birth, Social Security Number as required by state, amount of support being sought, means of qualification for support, and dates of service initiation and termination to the Universal Service Administrative Company, to be used in a Lifeline database and to ensure the proper administration of the Lifeline Program. Failure to consent will result in denial of service.
- _____ (2) I understand that I have the right to enroll in the Lifeline service using non-electronic methods. I further understand that I have the right to withdraw this consent at any time prior to activation of my service. Access Wireless has advised me that I may request a paper copy of my contract and associated fees by calling 611 from my mobile handset.
- _____ (3) I hereby authorize Access Wireless to send text messages to my Access Wireless phone number about my Lifeline benefit. Text messages sent by Access Wireless will not decrement my available wireless minutes or texts. Standard voice, data and text rates will apply to all messages to and from anyone other than Access Wireless.

Mail application to:

Access Wireless
One Levee Way, Suite 3106
Newport, KY 41071

For faster processing fax to:

1-888-594-4473

You can also apply online at:

www.accesswireless.com

APPLICANT'S SIGNATURE *Please use blue or black ink*

DATE

This signed authorization is required in order to enroll you in the Lifeline Program in your state and is only for the purpose of verifying your participation in these programs and will not be used for any other purpose. Service requests will not be processed until this form has been received and verified by Access Wireless.

**If you have any questions
CALL 1-888-450-1838**


access WIRELESS.
A government-funded Lifeline Assistance Program.

APPLICANT INFORMATION

First Name: _____ MI: _____ Last Name: _____

Residential Address: _____ Apt/Floor/Other _____
(NO P.O. BOXES, MUST BE YOUR PRINCIPAL ADDRESS)

This address is: ☐ Permanent ☐ Temporary ☐ Multi-Household

Mailing Address: _____ Apt/Floor/Other _____

City: _____ State: _____ ZIP Code: _____

Contact Telephone Number: _____ Email Address: _____

Date of Birth: _____ Last Four Digits of Social Security Number (or full Tribal ID Number): XXX-XX- _____

I am a Tribal Resident: ☐ Yes ☐ No

QUALIFYING INCOME ELIGIBILITY INFORMATION

You are eligible to apply if your household income is at or below 135% of the Federal Poverty Guidelines (FPG). You must submit proof of total household income for income-based qualification. Proof can include last year's income tax return, Social Security, retirement/pension, Unemployment/Workers' Compensation statement of benefits, divorce decree, child support award, three months' consecutive pay stubs, letter from employer verifying income, or other official documents containing income information. Please do not provide original documents – copies ONLY.

# of Household Members	Annual Income	Check Box that Applies
1	\$15,890	<input type="checkbox"/>
2	\$21,506	<input type="checkbox"/>
3	\$27,122	<input type="checkbox"/>
4	\$32,738	<input type="checkbox"/>
5	\$38,354	<input type="checkbox"/>
6	\$43,970	<input type="checkbox"/>
7	\$49,586	<input type="checkbox"/>
8	\$55,202	<input type="checkbox"/>

For each additional household member above 8, add \$4,160.

Important Information About the Lifeline Program

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Activation & Usage Requirements

This service is a prepaid service and you must activate it by dialing 611 from your Access Wireless handset. To keep your account active, you must use your Lifeline service at least once during any 60-day period by completing an outbound call, purchasing additional minutes from Access Wireless, answering an inbound call from someone other than Access Wireless, or by responding to a direct contact from Access Wireless confirming that you want to continue receiving Lifeline service from them. If your service goes unused for 60 days, you will no longer be eligible for Lifeline benefits and your service will be suspended (allowing only 911 calls and calls to the Access Wireless Customer Care center) subject to a 30-day cure period during which you may use the service (as described above) or contact Access Wireless to confirm that you want to continue receiving your Lifeline service from them.

☐ I hereby certify that I have read and understood the disclosures listed above regarding activation and usage requirements and important information on the Lifeline program.

I hereby certify, under penalty of perjury, that: (INITIAL BY EACH LINE)

- _____ (1) I meet the program-based eligibility criteria for receiving Lifeline service with an annual household income at or below 135% FPG, and have provided documentation of eligibility if required.
- _____ (2) I will notify Access Wireless within 30 days if for any reason, I no longer satisfy the criteria for receiving Lifeline including, as relevant, if I no longer meet the income-based or program-based eligibility criteria, I begin receiving more than one Lifeline benefit, or another member of my household is receiving a Lifeline benefit. I understand that I may be subject to penalties if I fail to follow this requirement.
- _____ (3) I am not listed as a dependent on another person's tax return (unless over the age of 60).
- _____ (4) I attest, to the best of my knowledge, that no one in my household, including myself, is receiving a Lifeline-supported service from any other landline or wireless company such as Bellsouth Telecommunications Inc., Safelink Wireless, or Assurance Wireless.
- _____ (5) The residential address listed above is my primary residence, not a second home or business.
- _____ (6) If I move to a new address, I will provide that new address to Access Wireless within 30 days.
- _____ (7) If I provided a temporary residential address to Access Wireless, I will verify my temporary residential address as required by law.
- _____ (8) I acknowledge that providing false or fraudulent information to receive Lifeline benefits is punishable by law.
- _____ (9) I acknowledge that I may be required to re-certify my continued eligibility for Lifeline at any time, and my failure to re-certify as to my continued eligibility within 30 days will result in de-enrollment and the termination of my Lifeline benefits.
- _____ (10) The information included in this certification form is true and correct to the best of my knowledge.
- _____ (11) If Access Wireless finds that I am already receiving a Lifeline discount benefit from another provider, I agree that I want to transfer my Lifeline discount benefit from that Lifeline provider to Access Wireless. I understand that once the transfer is complete, I will lose my Lifeline Program benefit with any other Lifeline provider from which I am currently receiving a Lifeline discount. Access Wireless has explained to me and I understand that I may not have multiple Lifeline Program benefits with the same or different providers.
- _____ (12) I certify that the individual named on the documentation used to demonstrate program participation or income eligibility is part of my household.
- _____ (13) *If Applicable:* I reside on Federally recognized Tribal Lands.

AUTHORIZATION & CERTIFICATIONS (INITIAL BY EACH LINE)

- _____ (1) I hereby authorize Access Wireless to access any records to verify my statements on this form and to confirm my eligibility for the Lifeline program. I also authorize Access Wireless to release any records required for the administration of the Lifeline program, including name, telephone number, address, date of birth, Social Security Number as required by state, amount of support being sought, means of qualification for support, and dates of service initiation and termination to the Universal Service Administrative Company, to be used in a Lifeline database and to ensure the proper administration of the Lifeline Program. Failure to consent will result in denial of service.
- _____ (2) I understand that I have the right to enroll in the Lifeline service using non-electronic methods. I further understand that I have the right to withdraw this consent at any time prior to activation of my service. Access Wireless has advised me that I may request a paper copy of my contract and associated fees by calling 611 from my mobile handset.
- _____ (3) I hereby authorize Access Wireless to send text messages to my Access Wireless phone number about my Lifeline benefit. Text messages sent by Access Wireless will not decrement my available wireless minutes or texts. Standard voice, data and text rates will apply to all messages to and from anyone other than Access Wireless.

Mail application to:

Access Wireless
One Levee Way, Suite 3106
Newport, KY 41071

For faster processing fax to:

1-888-594-4473

You can also apply online at:

www.accesswireless.com

APPLICANT'S SIGNATURE *Please use blue or black ink*

DATE

This signed authorization is required in order to enroll you in the Lifeline Program in your state and is only for the purpose of verifying your participation in these programs and will not be used for any other purpose. Service requests will not be processed until this form has been received and verified by Access Wireless.

**If you have any questions
CALL 1-888-450-1838**


access WIRELESS®
A government-funded Lifeline Assistance Program.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	File No.: EB-IHD-13-00010656
)	
i-wireless, LLC)	NAL/Acct. No.: 201432080003
)	
)	FRN: 0016194292

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: November 1, 2013**Released: November 1, 2013**

By the Commission:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (NAL), we continue our commitment to combatting waste, fraud, and abuse in the Lifeline program (Lifeline) by taking action and proposing monetary forfeitures against a company that apparently has ignored our rules and exploited a program dedicated to providing low-income Americans with basic telephone service. Specifically, we find that i-wireless, LLC (i-wireless), apparently willfully and repeatedly violated Sections 54.407, 54.409, and 54.410 of the Commission's rules¹ by requesting and/or receiving support from the Lifeline program of the Universal Service Fund (USF or Fund) for ineligible subscriber lines between the months of October 2012 and April 2013. Based on our review of the facts and circumstances surrounding these apparent violations, we propose a monetary forfeiture in the amount of eight million, seven hundred and fifty-three thousand and seventy-four dollars (\$8,753,074).

II. BACKGROUND

2. *Lifeline Service.* Lifeline is part of the USF and helps qualifying consumers have the opportunities and security that phone service brings, including being able to connect to jobs, family members, and emergency services.² Lifeline service is provided by Eligible Telecommunications Carriers (ETCs) designated pursuant to the Communications Act of 1934, as amended (Act).³ An ETC may seek and receive reimbursement from the USF for revenues it forgoes in providing the discounted services to eligible customers in accordance with the rules.⁴ Section 54.403(a) of the Commission's rules specifies that an ETC may receive \$9.25 per month for each qualifying low-income consumer receiving Lifeline service,⁵ and up to an additional \$25 per month if the qualifying low-income consumer resides on Tribal lands.⁶ ETCs are required to pass these discounts along to eligible low-income consumers.⁷

¹ 47 C.F.R. §§ 54.407, 54.409, 54.410.

² *Lifeline and Link Up Reform and Modernization*, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656, 6662–67, paras. 11–18 (2012) (*Lifeline Reform Order*); see also 47 C.F.R. §§ 54.400–54.422.

³ 47 U.S.C. § 254(e) (providing that “only an eligible telecommunications carrier designated under section 214(e) of this title shall be eligible to receive specific Federal universal service support”); 47 U.S.C. § 214(e) (prescribing the method by which carriers are designated as ETCs).

⁴ 47 C.F.R. § 54.403(a).

⁵ Lifeline provides a single discounted wireline or wireless phone service to each qualifying low-income consumer's household. See 47 C.F.R. § 54.401; see also 47 C.F.R. § 54.400(h) (defining “household” as “any individual or

(continued....)

3. The Commission's Lifeline rules establish explicit requirements that ETCs must meet to receive federal Lifeline support.⁸ Section 54.407(a) of the rules requires that Lifeline support "shall be provided directly to an eligible telecommunications carrier, based on the number of actual qualifying low-income consumers it serves."⁹ Pursuant to Section 54.407(b) of the rules, an ETC may receive Lifeline support only for qualifying low-income consumers.¹⁰ A "qualifying low-income consumer" must meet the eligibility criteria set forth in Section 54.409 of the rules, including the requirement that he or she "must not already be receiving a Lifeline service,"¹¹ and must, pursuant to Section 54.410(d) of the rules, certify his/her eligibility to receive Lifeline service.¹²

4. Section 54.410(a) of the Commission's rules requires further that ETCs have procedures in place "to ensure that their Lifeline subscribers are eligible to receive Lifeline services."¹³ As explained above, such eligibility requires that a consumer seeking Lifeline service may not already be receiving Lifeline service. This obligation therefore requires, among other steps, that an ETC search its own internal records to ensure that the ETC does not provide duplicate Lifeline service to any subscriber (an "intra-company duplicate").¹⁴

5. The Commission's rules further prohibit an ETC from seeking reimbursement for providing Lifeline service to a subscriber unless the ETC has confirmed the subscriber's eligibility to receive Lifeline service.¹⁵ In accordance with Section 54.410, before an ETC may seek reimbursement, it must receive a certification of eligibility from the prospective subscriber that demonstrates that the subscriber meets the income-based and program-based eligibility criteria for receiving Lifeline service,

(Continued from previous page) _____

group of individuals who are living together at the same address as one economic unit"); *Lifeline Reform Order*, 27 FCC Rcd at 6760, para. 241 (noting that the costs of wireless handsets are not supported by the Lifeline program).

⁶ See 47 C.F.R. § 54.403(a). Tribal lands include any federally recognized Indian tribe's reservation, pueblo, or colony, including former reservations in Oklahoma. See 47 C.F.R. § 54.400(e).

⁷ See 47 C.F.R. § 54.403(a); *Lifeline Reform Order*, 27 FCC Rcd at 6681, para. 53.

⁸ See 47 C.F.R. §§ 54.400–54.422.

⁹ 47 C.F.R. § 54.407(a).

¹⁰ 47 C.F.R. § 54.407(b). In 2011, the Commission took action to address potential waste, fraud, and abuse in the Lifeline program by preventing duplicate payments for multiple Lifeline-supported services to the same individual. See *Lifeline and Link Up Reform and Modernization*, Report and Order, 26 FCC Rcd 9022–23, 9026, para. 1 (2011) (*Lifeline Duplicates Order*); see also *Lifeline and Link Up Reform and Modernization*, Order, 28 FCC Rcd 9057 (Wir. Comp. Bur. 2013); 47 C.F.R. § 54.410(a). Specifically, the Commission amended Sections 54.401 and 54.405 of the rules to codify the restriction that an eligible low-income consumer cannot receive more than one Lifeline-supported service at a time. See *Lifeline Duplicates Order*, 26 FCC Rcd at 9026, para. 7. In the *Lifeline Reform Order*, this codified restriction was moved from Section 54.401(a) to revised Section 54.409(c). See *Lifeline Reform Order*, 27 FCC Rcd at 6689, para. 74, n.192. The Commission reiterated this limitation in the *Lifeline Reform Order*. See *Lifeline Reform Order*, 27 FCC Rcd at 6689, para. 74; 47 C.F.R. § 54.405.

¹¹ 47 C.F.R. §§ 54.400(a), 54.409(c).

¹² 47 C.F.R. § 54.410(d).

¹³ 47 C.F.R. § 54.410(a).

¹⁴ See *Lifeline Reform Order*, 27 FCC Rcd at 6691, para. 78. In June 2013, the Wireline Competition Bureau on delegated authority underscored these obligations, prohibiting ETCs from activating "a service that it represents to be Lifeline service, even on an interim basis while the consumer's application is being processed, before verifying eligibility," including that a consumer's household does not already subscribe to Lifeline service. *Lifeline and Link Up Modernization and Reform*, Order, 28 FCC Rcd 9057, 9059, para. 6 (Wir. Comp. Bur. 2013); see also 47 C.F.R. § 54.410(a).

¹⁵ See 47 C.F.R. § 54.410(b).

and that the subscriber is not already receiving Lifeline service.¹⁶ As the foregoing discussion reveals, when an ETC seeks Lifeline service support reimbursement for a low-income consumer who already receives Lifeline service from that same ETC, that ETC has violated its obligation under the Commission's rules to confirm the subscriber's eligibility for Lifeline service.

6. ETCs that provide qualifying low-income consumers with Lifeline discounts file an FCC Form 497 with the Universal Service Administrative Company (USAC), either quarterly or monthly, to request support that reimburses them for providing service at the discounted rates. An ETC's FCC Form 497 documents the number of qualifying low-income customers served and the total amount of Lifeline support claimed by the ETC during the specified time period. Section 54.407(d) provides that an ETC may receive reimbursement from the Fund, however, only if it certifies as part of its reimbursement request that it is in compliance with the Lifeline rules.¹⁷ An ETC may revise its Form 497 data within 12 months after the data are submitted.¹⁸

7. In addition to reviewing claims submitted by ETCs, USAC conducts in-depth data validations (IDVs) to further ensure compliance with the Lifeline rules.¹⁹ When a company is selected for an IDV, USAC will send the company a letter requesting subscriber data for a prior month or months. Once USAC receives the company's data, it analyzes the company's subscriber information to determine whether there are any duplicate subscribers and sends the company another letter with its initial results. USAC provides the company with an opportunity to submit a revised subscriber list to correct subscriber data or to remove subscribers that are no longer receiving service. If USAC determines that a low-income consumer is the recipient of multiple Lifeline benefits from that same ETC, it will send another letter to the ETC identifying the instances of intra-company duplicative support, seek a recovery, and notify the ETC that it must commence the deenrollment process for those duplicates.²⁰

8. *i-wireless, LLC*. *i-wireless*, a North Carolina limited liability company headquartered in Newport, Kentucky, is equally owned by two members, Genie Global, Inc. and The Kroger Co., which is a large grocery retail chain.²¹ *i-wireless* has been designated an ETC and offers Lifeline service in a number of jurisdictions including, but not limited to, Illinois,²² Indiana,²³ New York,²⁴ North Carolina,²⁵ Ohio,²⁶ South Carolina,²⁷ Tennessee,²⁸ and West Virginia.²⁹

¹⁶ See 47 C.F.R. § 54.410(b), (c); see also 47 C.F.R. § 54.410(d).

¹⁷ See 47 C.F.R. § 54.407(d).

¹⁸ See *Lifeline Reform Order*, 27 FCC Rcd 6788, para. 305. Subsequent revisions, however, do not vitiate violations of an ETC's duty to verify the eligibility of the subscribers that are reflected on any of its previously filed Form 497s.

¹⁹ See *Lifeline Duplicates Order*, 26 FCC Rcd at 9026, para. 7.

²⁰ Although USAC recovers the duplicative support payments for the month at issue in the IDV examination (generally a single month), it does not at present always seek to recover the duplicative support that the ETC may have received for the same duplicates for the preceding and following months. We therefore direct USAC, when it determines that an ETC has sought support from the Fund for an intra-company duplicate, to require the ETC to report to USAC (a) the month in which the ETC began requesting and/or receiving duplicative support for each such subscriber, and (b) the month the ETC stopped requesting and/or receiving duplicative support for each such subscriber. We further require that, after receiving such information, USAC shall recover from the ETC all of the duplicative support it has received for such subscribers.

²¹ See State of North Carolina Department of State, Corporations Division, <http://www.secretary.state.nc.us/corporations/corp.aspx?Pitemid=8039285> (last visited Oct. 22, 2013).

²² Illinois Commerce Comm., File No. 11-0073 (granted Apr. 15, 2011).

²³ Indiana Util. Reg. Comm., Cause No. 41052 ETC 56 (Aug. 3, 2011).

²⁴ See *In The Matter Of Telecommunications Carriers Eligible for Universal Support, i-wireless, LLC Amended Petition for Designation as an Eligible Telecommunications Carrier in the States of Alabama, Connecticut,*

(continued....)

9. USAC conducted IDVs of the Lifeline support requested by i-wireless for its subscribers in the following eight states for the months specified: Ohio (October 2012); North Carolina (November 2012); Illinois (November 2012, December 2012, and January 2013 through April 2013); Tennessee (December 2012); West Virginia (December 2012); New York (January 2013); Indiana (February 2013); and South Carolina (February 2013). Based on USAC's analysis, i-wireless apparently had 1,684 individual intra-company duplicate lines for which i-wireless improperly sought Lifeline support reimbursement.³⁰ According to USAC, i-wireless requested \$24,358 in overpayments from USAC over the months covered by the IDVs.

III. DISCUSSION

10. Under Section 503(b)(1) of the Act, any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.³¹ Section 312(f)(1) of the Act defines "willful" as the "conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law.³² The legislative history to Section 312(f)(1) of the Act clarifies that this definition of willful applies to both Sections 312 and 503(b) of the Act,³³ and the Commission has so interpreted the term in the Section 503(b) context.³⁴ The Commission may also

(Continued from previous page)

Delaware, Florida, New Hampshire, North Carolina, New York, Tennessee, the Commonwealth of Virginia, and the District of Columbia, Amended Petition of Cricket Communications, Inc. for Designation as an Eligible Telecommunication Carrier, Order, 27 FCC Rcd 6263 (2012) (*FCC June 13, 2013 ETC Designation Order*). The Commission also designated i-wireless as an ETC in Alabama, Connecticut, Delaware, Florida, New Hampshire, the Commonwealth of Virginia, and the District of Columbia.

²⁵ *Id.*

²⁶ Ohio Pub. Util. Comm., File No. 11-571-TP-UNC (Granted Nov. 22, 2011).

²⁷ South Carolina Pub. Service Comm., Docket No. 2011-107-C, Order No. 2011-766 (Oct. 31, 2011).

²⁸ See *FCC June 13, 2013 ETC Designation Order*, 27 FCC Rcd 6263.

²⁹ West Virginia Pub. Service Comm., Case No. 11-0501-C-PC (granted July 12, 2011).

³⁰ An "intra-company duplicate line" is any line for which i-wireless sought and/or received reimbursement in violation of the Commission's one line per household rule. See 47 C.F.R. § 54.409(c). For the purposes of applying the second prong of our three-part forfeiture framework (a base forfeiture of \$5,000 per duplicate), given the unique circumstances presented by Lifeline intra-company duplicate cases involving multiple months of duplicate service, we have counted each intra-company duplicate line once, regardless of the number of months in which i-wireless sought and/or received reimbursement for that line. We account for the duration of each intra-company duplicate line (*i.e.*, the number of months that i-wireless sought compensation for each intra-company duplicate line) in the first and third prongs of our forfeiture calculation. See *infra* paras. 14-15.

³¹ See 47 U.S.C. § 503(b)(1)(B); 47 C.F.R. § 1.80(a)(1).

³² 47 U.S.C. § 312(f)(1).

³³ H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982) ("This provision [inserted in Section 312] defines the terms 'willful' and 'repeated' for purposes of section 312, and for any other relevant section of the act (e.g., Section 503) As defined[,] . . . 'willful' means that the licensee knew that he was doing the act in question, regardless of whether there was an intent to violate the law. 'Repeated' means more than once, or where the act is continuous, for more than one day. Whether an act is considered to be 'continuous' would depend upon the circumstances in each case. The definitions are intended primarily to clarify the language in Sections 312 and 503, and are consistent with the Commission's application of those terms").

³⁴ See, e.g., *So. Cal. Broad. Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991), *recons. denied*, 7 FCC Rcd 3454 (1992) (*Southern California Broadcasting*).

assess a forfeiture for violations that are merely repeated, and not willful.³⁵ “Repeated” means that the act was committed or omitted more than once, or lasts more than one day.³⁶ To impose such a forfeiture penalty, the Commission must issue a notice of apparent liability, and the person against whom the notice has been issued must have an opportunity to show, in writing, why no such forfeiture penalty should be imposed.³⁷ The Commission will then issue a forfeiture if it finds, based on the evidence, that the person has violated the Act, or a Commission Rule or Order.³⁸

11. Based on the record evidence developed in this investigation, we conclude that i-wireless apparently willfully and repeatedly violated Sections 54.407, 54.409, and 54.410³⁹ of the rules by concurrently requesting Lifeline support reimbursement for 1,684 individual intra-company duplicate lines. Based on the facts and circumstances before us, we therefore conclude that i-wireless is apparently liable for forfeiture penalties totaling \$8,753,074.

IV. PROPOSED FORFEITURE

12. For the violations at issue here, Section 503(b)(2)(B) of the Act authorizes the Commission to assess a forfeiture against a telecommunications carrier of up to \$150,000 for each violation or each day of a continuing violation, up to a statutory maximum of \$1,500,000 for a single act or failure to act.⁴⁰ In determining the appropriate forfeiture amount, we consider the factors enumerated in Section 503(b)(2)(E) of the Act, including “the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require,”⁴¹ as well as our forfeiture guidelines.⁴²

³⁵ See, e.g., *Callais Cablevision, Inc.*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359, 1362, para. 10 (2001) (*Callais Cablevision*) (proposing a forfeiture for, *inter alia*, a cable television operator’s repeated signal leakage).

³⁶ *Southern California Broadcasting*, 6 FCC Rcd at 4388, para. 5; *Callais Cablevision*, 16 FCC Rcd at 136, para. 9.

³⁷ 47 U.S.C. § 503(b)(4); 47 C.F.R. § 1.80(f).

³⁸ See, e.g., *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7591, para. 4 (2002).

³⁹ 47 C.F.R. §§ 54.407, 54.409, 54.410; see also *supra* paras. 3–6 (discussing these rules and observing that when an ETC seeks Lifeline service support reimbursement for a low-income consumer who already receives Lifeline service from that ETC, that ETC has failed in its obligation to confirm the subscriber’s eligibility for Lifeline service in violation of the rules).

⁴⁰ See 47 U.S.C. § 503(b)(2)(B); 47 C.F.R. § 1.80(b)(2). These amounts reflect inflation adjustments to the forfeitures specified in Section 503(b)(2)(B) (\$100,000 per violation or per day of a continuing violation and \$1,000,000 per any single act or failure to act). The Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. No. 101-410, 104 Stat. 890, as amended by the Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, Sec. 31001, 110 Stat. 1321 (DCIA), requires the Commission to adjust its forfeiture penalties periodically for inflation. See 28 U.S.C. § 2461 note (4). The Commission most recently adjusted its penalties to account for inflation in 2013. See *Amendment of Section 1.80(b) of the Commission’s Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, DA 13-1615, 2013 WL 3963800 (Enf. Bur. 2013); see also *Inflation Adjustment of Monetary Penalties*, 78 Fed. Reg. 49,370-01 (Aug. 14, 2013) (setting Sept. 13, 2013, as the effective date for the increases). However, because the DCIA specifies that any inflationary adjustment “shall apply only to violations which occur after the date the increase takes effect,” we apply the forfeiture penalties in effect at the time the violation took place. 28 U.S.C. § 2461 note (6). Here, because the violations at issue occurred before September 13, 2013, the applicable maximum penalties are based on the Commission’s previous inflation adjustment that became effective on September 2, 2008. See *Inflation Adjustment of Maximum Forfeiture Penalties*, 73 Fed. Reg. 44,663, 44,664 (July 31, 2008).

⁴¹ 47 U.S.C. § 503(b)(2)(E).

⁴² See 47 C.F.R. § 1.80(b)(8); Note to Paragraph (b)(8): Guidelines for Assessing Forfeitures.

13. If an ETC violates our rules and submits a request for Lifeline support that it knew or should have known includes ineligible subscribers, and thus requests and/or receives more reimbursement from the Fund than the amount to which it is properly entitled, it undermines the low-income support reimbursement mechanism. The Commission believes that the imposition of a significant forfeiture amount is a necessary response to Lifeline overcollection violations. Lifeline ETCs must expend the necessary company resources to ensure compliance with the Commission's Lifeline rules, especially the rules and procedures requiring that providers request and/or receive federal universal service support only for service provided to eligible consumers. Imposing a significant forfeiture on such rule violators should deter those service providers that fail to devote sufficient resources to ferreting out company practices resulting in overcollection violations. In addition, a significant forfeiture should achieve broader industry compliance with Lifeline rules that are critically important to the effective functioning of the Fund.

14. To eliminate waste, fraud, and abuse, maintain the integrity of the Fund, and protect the consumers who contribute to the Fund, the Commission has implemented a three-part forfeiture framework for Lifeline overcollection violations that imposes: (1) a base forfeiture of \$20,000 for each instance in which an ETC files an FCC Form 497 that includes ineligible subscribers in the line count, which is a violation of the certification requirement contained in Section 54.407(d) of our rules;⁴³ (2) a base forfeiture of \$5,000 for each ineligible subscriber for whom the ETC requests and/or receives support from the Fund in violation of Sections 54.407, 54.409, and 54.410 of our rules;⁴⁴ and (3) an upward adjustment of the base forfeiture equal to three times the reimbursements requested and/or received by the ETC for ineligible subscribers.⁴⁵

15. Based on the facts and record before us, we have determined that i-wireless has apparently willfully and repeatedly violated Sections 54.407, 54.409, and 54.410 of the rules.⁴⁶ As documented above, over the course of seven months, and in connection with the submission of thirteen FCC Form 497s, i-wireless requested Lifeline support reimbursement of \$24,358 for customers who were receiving more than one i-wireless Lifeline service. Accordingly, with respect to the first component of the structure articulated by the Commission, we propose a base forfeiture of \$260,000 for the submission of the FCC Form 497s that included the ineligible intra-company duplicate subscribers in the line counts. With respect to the second component, we propose a base forfeiture of \$8,420,000 based on the 1,684 individual intra-company duplicate lines for which i-wireless requested and/or received compensation from the Fund. Finally, with respect to the third component, we propose an upward adjustment of \$73,074, which is three times the amount of support i-wireless requested and/or received for ineligible consumers. We therefore conclude that a total proposed forfeiture of \$8,753,074 against i-wireless for its apparent violations of the Commission's Lifeline rules is warranted.

16. This NAL will in no way foreclose the Commission or any other governmental entity from taking additional enforcement action and imposing additional forfeitures for other violations of the Lifeline rules. Moreover, the Commission clarifies that the penalties that result from this NAL are separate from any amounts that an ETC may be required to refund to USAC in order to make the Fund whole.

V. ORDERING CLAUSES

17. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act, and 1.80 of the rules,⁴⁷ i-wireless, LLC, is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A**

⁴³ 47 C.F.R. § 54.407(d).

⁴⁴ 47 C.F.R. §§ 54.407, 54.409, 54.410; see *Easy Tel. Servs. d/b/a Easy Wireless*, File No. EB-IHD-13-00010590, Notice of Apparent Liability for Forfeiture, FCC 13-129, at 5-7, paras. 13-18 (Sept. 30, 2013) (*Easy Wireless*).

⁴⁵ See *Easy Wireless*, FCC 13-129, at 5-7, paras. 13-18.

⁴⁶ 47 C.F.R. §§ 54.407, 54.409, 54.410.

⁴⁷ 47 U.S.C. § 503(b); 47 C.F.R. § 1.80.

FORFEITURE in the amount of eight million, seven hundred and fifty-three thousand and seventy-four dollars (\$8,753,074) for apparently willfully and repeatedly violating Sections 54.407, 54.409, and 54.410 of the rules.⁴⁸

18. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the rules,⁴⁹ within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, i-wireless **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

19. Payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account number and FRN referenced above. i-wireless shall also send electronic notification of payment to Theresa Z. Cavanaugh, at Terry.Cavanaugh@fcc.gov and to Pam Slipakoff at Pam.Slipakoff@fcc.gov on the date said payment is made. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.⁵⁰ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions you should follow based on the form of payment you select:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.⁵¹ If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

20. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to Sections 1.16 and 1.80(f)(3) of the rules,⁵² and may include any data or information demonstrating that the IDV results referenced in this NAL are materially erroneous or anomalous or that the forfeiture

⁴⁸ 47 C.F.R. §§ 54.407, 54.409, 54.410.

⁴⁹ 47 C.F.R. § 1.80.

⁵⁰ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

⁵¹ See 47 C.F.R. § 1.1914.

⁵² 47 C.F.R. §§ 1.16, 1.80(f)(3).

proposed is otherwise inappropriate.⁵³ The written statement must be mailed to Theresa Z. Cavanaugh, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, and must include the NAL/Acct. No. referenced in the caption. The written statement shall also be emailed to Theresa Z. Cavanaugh, at Terry.Cavanaugh@fcc.gov and to Pam Slipakoff at Pam.Slipakoff@fcc.gov.

21. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting principles (GAAP); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

22. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by certified mail, return receipt requested, and first class mail to Lance J.M. Steinhart, Esq., Lance J.M. Steinhart, P.C., 1725 Windward Concourse, Suite 150, Alpharetta, GA 30005.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁵³ For example, the written statement could include data showing that the months examined in the IDVs were outliers or otherwise not representative.

EXHIBIT 5

CONFIDENTIAL NAL Response

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January 27, 2014

VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Notice of Ex Parte Presentation; WC Docket Nos. 11-42, 03-109

Dear Ms. Dortch:

On Thursday, January 23, 2014, John Heitmann and Joshua Guyan of Kelley Drye & Warren LLP, on behalf of five members of the Lifeline Connects Coalition ("Coalition"),¹ participated in a telephone call with Rebekah Goodheart of Commissioner Mignon Clyburn's office, and met with Nicholas Degani of Commissioner Pai's office to discuss the role of the members in the Lifeline program and the Notices of Apparent Liability ("NALs") recently issued to several Lifeline eligible telecommunications carriers ("ETCs") including three members of the Coalition – i-wireless, Telrite and Global Connection. Also on January 23, 2014, John Heitmann met with Christi Barnhart of Commissioner Rosenworcel's office and on January 24, 2014 John Heitmann and Joshua Guyan met with Amy Bender of Commissioner O'Reilly's office to discuss the same matters. The following summary captures points made during the discussions related to the above-captioned dockets.

Lifeline Connects Coalition Support of the Lifeline Program

We discussed the Coalition's role in response to the Commission's call for industry support in publically defending the program and promoting its effectiveness. These companies have developed and distributed materials to use in support of the program, including

¹ The members of the Coalition represented by the undersigned are Boomerang Wireless, LLC; Global Connection Inc. of America; i-wireless LLC; Telrite Corporation; and Blue Jay Wireless, LLC.

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the enclosed Myths v. Facts to dispel false rumors regarding the program;² summary of the Commission's Lifeline reforms to demonstrate the Commission's actions to reform and improve the Lifeline program;³ and testimonials from Lifeline subscribers to highlight the stories of real people that rely on these companies and the Lifeline program to provide access to employers, potential employers, teachers, doctors, nurses and family while they struggle to improve their economic situation.⁴ Further, these companies joined to form the Lifeline Reform 2.0 Coalition in June 2013 to file a petition for rulemaking proposing additional business-plan agnostic reforms to the Lifeline program.⁵ A summary of the Lifeline Reform 2.0 proposals is enclosed.⁶

Competition Will Improve the Transition to Broadband

These companies support the transition of the Lifeline program to support broadband service for low-income households and will be key to ensuring competition in the low-income and Lifeline markets to provide broadband service. The program does not benefit from having only one or two major wireless Lifeline providers. Rather, it is improved by the existence of competition in the marketplace, which has resulted in an increase in the standard free wireless minutes offering from 68 minutes to 250 minutes and improved text messaging offers. Further, some ETCs like Boomerang Wireless are already experimenting with offering some broadband data service to Lifeline subscribers on a trial basis. Broadband offerings for low-income Americans will be improved by having healthy competition in the wireless Lifeline marketplace.

Commitment to Combating Duplicate Enrollment Attempts

We also discussed the commitment these companies have made to combating duplicate enrollments in the Lifeline program, both within each company and between ETCs. For example, these companies have joined with dozens of other ETCs that voluntarily utilize an Inter-company Duplicates Database ("IDD") developed by CGM, LLC that currently includes more than 2.2 million lines and has prevented over 337,000 duplicate enrollment attempts since its inception. That equates to savings to the Lifeline program of \$3.9 million per month, which would be \$46.8 million annually.⁷ These efforts were undertaken before the development of the

² See Exhibit A.

³ See Exhibit B.

⁴ See Exhibit C.

⁵ See Lifeline Reform 2.0 Coalition Petition for Rulemaking, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45 (filed June 28, 2013).

⁶ See Exhibit D.

⁷ See graphic representation at Exhibit E.

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Commission's National Lifeline Accountability Database ("NLAD") and the IDD has blocked inter-company duplicate enrollment attempts while the NLAD was supposed to have been operational (since February 2013).⁸ These companies have worked extensively with the Wireline Competition Bureau ("Bureau") and the Universal Service Administrative Company ("USAC") to vet and improve the NLAD (including its identity verification component), including by flying in technical advisors from the companies to meet with and assist USAC and its NLAD vendor and through CGM's consistent efforts to educate the Bureau and USAC on its experience building and operating a duplicates database. The companies are pleased that the NLAD will be "live" for real-time enrollment "dips" starting next month and stand ready to help to make sure that the launch is successful.

The Notices of Apparent Liability

Unfortunately, despite these efforts to combat duplicate enrollments, the Commission has undertaken a misguided and harmful process of proposing multi-million dollar fines against ETCs for failing to eradicate 100 percent of end-user fraud allegedly perpetrated in the form of intra-company duplicate enrollments in the Lifeline program. The NALs give the false perception to the media, Congress and the American public that there has been over \$90 million in fraud committed in the Lifeline program, when in fact the alleged overpayments from the fund total approximately \$330,000.

i-wireless, Telrite, and Global Connection each have received an NAL, despite the fact that each company has had its compliance program and duplicate detection processes vetted and approved by the Bureau. Each company disputes the allegation of duplicate enrollments, but even if every one of the alleged intra-company duplicates were duplicates, the companies would have near-perfect track records at protecting the program from such duplicate enrollments – i-wireless 99.7 percent, Telrite 99.6 percent and Global Connection 99.4 percent. The Commission and USAC appear to expect perfection in guessing what USAC deems to be a duplicate, but these track records at blocking duplicate enrollment attempts are not the sign of ETCs that ignore the Commission's rules or abuse the program by accepting duplicate enrollments attempts by end-users. In fact, if each company were subject to the Improper Payments Elimination and Recovery Act of 2010 threshold for government disbursement programs, none would be considered to be susceptible to "significant improper payments" because the alleged improper payments are less than 1.5 percent.⁹

⁸ See graphic representation showing the timeline for the NLAD at Exhibit F.

⁹ See *Improper Payments Elimination and Recovery Act of 2010*, P.L. 111-204 (Jul. 22, 2010, 31 U.S.C. § 3321).

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Indeed, each company has extensive processes and procedures in place to block duplicate enrollments, both intra-company through internal database checks and inter-company through the IDD using software that looks for matching data. However, the Commission's rules and orders do not define a "duplicate" for purposes of the one-per-household rule, nor do they define a "subscriber" for purposes of determining whether the subscriber receives more than one Lifeline-supported service. Notably, when the Bureau has provided guidance on what it views to represent a duplicate, it has offered something different on no less than four occasions (In-Depth Validation instructions to USAC, Lifeline Biennial Audits, NLAD seeding and in Public Notices requiring the use of all subscriber data for detecting duplicates).¹⁰

In the IDVs that were conducted by USAC since 2011, the Commission instructed USAC to look for "same name and same address" duplicates.¹¹ Instead, USAC looked for similar name and similar address "duplicates" using a subjective process that it would not make available to ETCs. No Commission rule, however, defines which similarities are meaningful and which are not – or how to addresses multiple variations in that information. For example, USAC appears to discount or ignore differences in name such as Jr. and Sr. (regardless of whether the subscribers have completed an independent economic household form) and secondary address fields such as apartment numbers.

In 2013, USAC started notifying ETCs of alleged intra-company duplicates and instructing ETCs through findings letters to de-enroll them. Although the companies often suspected that many or all of the alleged duplicates were not in fact duplicates, they generally followed a practice of de-enrolling the subscribers within 5 business days at the instruction of USAC as they had done for inter-company duplicates. The findings generally involved a tiny portion (less than 1%) of the subscribers reviewed and small amounts ranging from \$9 to a few hundred or a few thousand dollars that USAC captured from the ETC's next month's disbursement. As a result of the release of the NALs discussed herein, ETCs, including those that have not received NALs like Boomerang Wireless, have begun appealing all USAC intra-company duplicate IDV findings to the Bureau.

In order to thwart duplicate enrollment attempts, since June 2012, the Commission has required Lifeline ETCs to obtain two additional pieces of information about each subscriber: date of birth and last four digits of the subscriber's social security number ("SSN"). The Bureau has addressed the question of what ETCs must do with this information

¹⁰ See *Wireline Competition Bureau Announces Duty to Query the National Lifeline Accountability Database*, WC Docket No. 11-42, Public Notice, DA 14-40 (rel. Jan. 14, 2014) ("NLAD Query Public Notice").

¹¹ See Letter from Sharon E. Gillett, Chief, WCB, to D. Scott Barash, Acting Chief Executive Officer, USAC, DA 11-1082 at 5 (June 21, 2011).

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differently in several different contexts. The NLAD will check applicants for same exact last name, date of birth and last four digits of the SSN, which will be effective, but no process can be perfect and perfection should not be expected. Further, the Bureau has proposed audit procedures for the Lifeline Biennial Audits that would require independent auditors to define a “subscriber” as having a match of (full) name, date of birth and last four digits of the SSN.¹² While USAC ignores date of birth and SSN information for purposes of finding duplicates in its IDVs, the Bureau (rationally) instructs ETCs that they must consider that information in making a duplicate determination.¹³

Starting in September 2013, likely in response to pressure from Congress, the Commission started converting the IDVs, in many cases, directly into NALs without any Letter of Inquiry from the Enforcement Bureau. The NALs impose an unconstitutional forfeiture structure that seeks to fine Telrite \$22,399,761 for alleged overpayments from the Lifeline program of \$41,587;¹⁴ to fine Global Connection \$11,702,695 for alleged overpayments of \$22,565;¹⁵ and to fine i-wireless \$8,753,074 for alleged overpayments of \$24,358.¹⁶ Those proposed fines are multiples of **538, 519 and 359 times** the alleged harm to the Lifeline program.¹⁷ In one particularly egregious example, the Commission has proposed to fine i-wireless \$25,027.75 for a single alleged duplicate subscriber in West Virginia.¹⁸

In previous enforcement actions alleging duplicate Lifeline accounts, the Commission proposed fines that were **3.6 times** (VCI Company),¹⁹ **1.09 times** (TerraCom)²⁰ and

¹² See *Wireline Competition Bureau Seeks Comment on the Lifeline Biennial Audit Plan*, WC Docket No. 11-42, Public Notice, DA 13-2016, at Attachment 2, p. 15 (rel. Sept. 30, 2013).

¹³ See NLAD Query Public Notice

¹⁴ *In re Telrite Corporation*, Notice of Apparent Liability for Forfeiture, File No. EB-IHD-13-00010674 (rel. Dec. 11, 2013) (“Telrite NAL”).

¹⁵ *In re Global Connection Inc. of America d/b/a Stand Up Wireless*, Notice of Apparent Liability for Forfeiture, File No. EB-IHD-13-00010970 (rel. Dec. 11, 2013) (“Global Connection NAL”).

¹⁶ *In re i-wireless, LLC*, Notice of Apparent Liability for Forfeiture, File No. EB-IHD-13-00010656 (rel. Nov. 1, 2013) (“i-wireless NAL”).

¹⁷ See graphic representations at Exhibit G.

¹⁸ See i-wireless NAL.

¹⁹ See *In the Matter of VCI Company Apparent Liability for Forfeiture*, File No. EB-07-IH-3985, Notice of Apparent Liability for Forfeiture and Order, 22 FCC Rcd 15933 (rel. Aug. 15, 2007).

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4.2 times (YourTel)²¹ the alleged overpayment. As a further comparison, in the Commission's recent consent decree with AT&T over improper Telecommunications Relay Service ("TRS") reimbursements, AT&T agreed to make an \$11,250,000 voluntary contribution in addition to a reimbursement of \$7,000,000 in improperly received TRS funds – a penalty representing **1.6 times** the alleged harm.²² In an action regarding alleged violations of the Commission's truth-in-billing rules against Verizon Wireless, the Commission proposed to fine the company **less than half** of the alleged overpayments received for data usage charges.²³ These comparisons demonstrate that the fines proposed against Telrite, Global Connection, i-wireless and other Lifeline ETCs are unlawfully punitive.

Fines like those proposed against Telrite, Global Connection, i-wireless and others threaten the viability of the Lifeline program and impact even those ETCs that have not received an NAL. Since no company can be perfect at eliminating all intra-company duplicates by guessing perfectly what USAC will determine to be a similar name, similar address "duplicate," under its subjective standard, all ETCs are operating with the prospect of such enforcement actions and the unreasonably punitive fines structure. The specter of these NALs has slowed or stopped state approval of ETC designations (even for ETCs without NALs), threatened investment in Lifeline providers and resulted in job losses at ETCs.

The NALs and IDV appeals have revealed that USAC's "similar name, similar address" approach to duplicate detection can result in outcomes that could be or could be perceived to be racial profiling or some other form of discrimination resulting in disparate impact or disparate treatment. For example, one i-wireless IDV that was included in its NAL alleges that two subscribers both named Jose with different last names, different SSNs and different dates of birth that live in the same apartment building in the Bronx, New York (in different apartments) are duplicates. As another example, Boomerang Wireless not only appealed the IDV findings but also appealed the disconnect and self-help aspects with respect to duplicate pairs for which it has an independent economic household form and for another group of

²⁰ See *In the Matter of TerraCom, Inc.*, Consent Decree, 28 FCC Rcd 1527 (rel. Feb. 26, 2013).

²¹ *In the Matter of YourTel America, Inc.*, Consent Decree, 28 FCC Rcd 1539 (rel. Feb. 26, 2013).

²² See *In the Matter of AT&T*, File No.: EB-TCD-12-00000337, Acct. No.: 201332170011, FRN: 0005193701, Order 28 FCC Rcd 5994, 6004-05 (rel. May 7, 2013).

²³ See *In the Matter of Verizon Wireless Data Usage Charges*, File No. EB-09-TC-458, Account No. 201132170001, FRN No. 0019212406, 25 FCC Rcd 15105 (rel. Oct. 28, 2010) (Verizon Wireless agreed to a voluntary contribution of \$25 million for \$52.8 million refunded to customers).

KELLEY DRYE & WARREN LLP

Marlene H. Dortch, Secretary
January 27, 2014
Page Seven

duplicates that would result in Boomerang Wireless having to disconnect members of an Asian ethnic minority with short, similar names who live close by to each other.²⁴ We do not suggest that USAC would intentionally discriminate against certain ethnic minorities. However, the extent to which outcomes like this have resulted from USAC's unauthorized deviation from the Bureau's instructions for conducting IDVs²⁵ is not known. Fortunately, with the NLAD finally going "live" next month, the Commission can soon rely on a more predictable and rational means of duplicate detection that avoids the unintended consequences resulting from USAC's IDVs.

This letter is being filed electronically for inclusion in the public record of the above-referenced proceedings. Please feel free to contact the undersigned with any questions.

Respectfully submitted,



John J. Heitmann
Joshua T. Guyan

*Counsel to Boomerang Wireless, LLC; Global
Connection Inc.; i-wireless LLC; Telrite
Corporation; and Blue Jay Wireless, LLC*

Enclosures

cc: Rebekah Goodheart
Nicholas Degani
Christi Barnhart
Amy Bender

²⁴ See Notice of Written *Ex Parte* Presentation Regarding Boomerang Wireless Request for Review; WC Docket Nos. 11-42, 03-109 (filed Jan. 10, 2014); Boomerang Wireless, LLC Supplement to Request for Review, WC Docket Nos. 11-42, 03-109, (Jan. 10, 2014).

²⁵ See 47 C.F.R. § 54.702(c); *The Conference Group, LLC v. FCC*, 720 F.3d 957, 960 (D.C. Cir. 2013) (USAC "has no policy or interpretive role").

EXHIBIT A

LifeLineConnects

The Truth About Lifeline

Myth: The government gives away cellphones through Lifeline.

Fact: The Lifeline program does not pay for phones. It subsidizes the services only.

Myth: This is just another Obama Administration entitlement program.

Fact: The Lifeline program was created in 1985 under President Ronald Reagan for wireline phone service only. In 2005, Lifeline was expanded under the Bush Administration to include pre-paid wireless service.

Myth: Cellphone service is a luxury and does not require a government subsidy.

Fact: When the program began in 1985, only 80 percent of low-income households had phone service. Today, that level has increased to 92 percent in large part due to the success of the Lifeline program. According to the Centers for Disease Control, a majority of Americans living in poverty have only a cellphone and no wireline telephone, and over 40 percent of children live in homes with only a cellphone.

Myth: All you have to do is sign up. There's no real check to see who is eligible.

Fact: All Lifeline service providers are now required by the FCC to verify eligibility of a consumer by verifying income or participation in a qualifying program. A consumer is only eligible for Lifeline if their income is at or below 135 percent of the federal poverty guidelines, or a participant in Medicaid, Food Stamps, Federal Public Housing Assistance, National School Lunch Program, Bureau of Indian Affairs General Assistance, or Head Start.

Myth: Our tax dollars are used to pay for these discounted phone services.

Fact: Absolutely no federal tax dollars are used to fund the program. Funding comes from the Universal Service Fund (USF) from fees assessed on service providers and customers, which is also used to provide subsidies for rural phone service, rural telemedicine connectivity and public schools and libraries.

Myth: People can sign up for as many Lifeline accounts as they want.

Fact: The FCC's rules permit only one Lifeline account per household. The FCC and the industry have worked diligently to eliminate duplicate enrollments, and later this year,

the National Lifeline Accountability Database is expected to come online to help prevent duplicate enrollments before they happen.

Myth: The program ballooned and became fraught with fraud under the Obama Administration.

Fact: Under Chairman Genachowski, major reforms adopted last year to curb waste, fraud and abuse have saved the fund more than \$200 million in 2012 and are projected to save \$400 million in 2013. The fact is that under the FCC's recent reforms, enrollment in Lifeline has leveled off and has begun to shrink.

Myth: 41% of Lifeline subscribers couldn't demonstrate eligibility or refused to respond to requests for recertification in 2012.

Fact: The FCC found that 29% -- not 41% -- of Lifeline customers that were enrolled in the program as of June 2012 were de-enrolled at the conclusion of the 2012 Lifeline Recertification Process. The FCC concluded that a non-response to a recertification request does not indicate that a subscriber was ineligible at the time of enrollment or at the time of the annual recertification.

For more information on the Lifeline Program, visit <http://www.lifelineconnects.org/>

EXHIBIT B

Federal Communications Commission Low-Income Fund Reforms
Lifeline Reform Order (FCC 12-11) February 6, 2012
Lifeline Further Reform Order (DA 13-1441) June 25, 2013

- Conformed the Lifeline rules to the new definition of “voice telephony service”
- Provides blanket forbearance from the “own facilities” requirement, if carriers file a Compliance Plan
- Toll Limitation Service support to be phased down and then eliminated
- New flat \$9.25 Lifeline reimbursement
- Link Up eliminated, except in Tribal areas for ETCs receiving High Cost support
- New eligibility, enrollment, certification and verification regime, including duplicates and eligibility databases; requirement to view proof of eligibility
- The 2013 Lifeline Reform Order states that ETCs may not provide an activated device for Lifeline service until the consumer’s eligibility is fully verified and all enrollment steps are completed
- As of June 1, 2012, customer eligibility depends on compliance with one-per-household requirement
 - ETCs must inform prospective customers that only one Lifeline service is available per household (marketing disclosures)
 - Lifeline application must include certification from customer that household is not already receiving a Lifeline service
- Marketing disclosures
- Two special requirements for pre-paid providers
 - Activation: no Lifeline support until the subscriber activates the service by means specified by carrier, such as outbound call
 - Usage: no Lifeline support for subscribers that have not “used” the service for 60 days
- ETCs were required to re-certify all existing customers as of June 1, 2012 by the end of 2012 and report to the FCC and USAC on January 31, 2013 (Form 555); must re-certify all subscribers annually and report by Jan. 31 for the previous year
- New ETCs will be audited by USAC within 12 months of seeking Lifeline reimbursement (by activating a Study Area Code to provide Lifeline service)
- ETCs that draw \$5 million or more annually from the Low-Income Fund must hire an independent audit firm to perform audits every 2 years

Savings Reported by the FCC

- February 12, 2013 News Release: 2012 savings in Lifeline program more than \$214 million; expect at least an additional \$400 million in 2013

EXHIBIT C



REAL FAMILIES
REAL STORIES
REAL LIFELINE

lifelineconnects.org

JOBS



"I was in desperate need of a phone and on the job hunt fiercely. Well my first interview I gave the receptionist my phone number and although I didn't get the job I got another interview and they were able to call me because of my new phone thanks to StandUP."



-Lillian W.



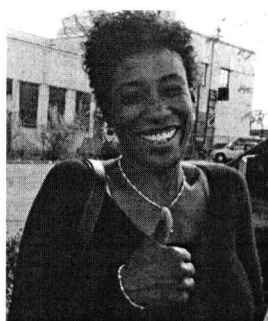
"Without my phone I could not make the phone calls to inquire about employment. I just received a call about an hour ago from an employer to schedule me for an interview. Without this phone that would not have been possible."

- Edward B. (Chicago, IL)



"I got laid off from my job and have been looking for employment for the past 7 months. I need to have a phone where potential employers can contact me."

-Tara G., Kentucky



"I used to work in a beauty shop, but I couldn't afford the rent any longer so now I cut hair out of my apartment. My clients need a way to contact me to schedule appointments. I rely on my Lifeline phone so that they can reach me. If they call and I'm not available, they'll go somewhere else."

--Charlene P., Indiana



SAFETY



"My kids and I were home alone one day and a young man started banging and kicking at my door and windows. He was screaming, "Let me in now!" My kids were scared, crying and upset because he would not stop or go away. I called 911. The police arrived and chased him away. Having my Life Wireless cell phone gives me a sense of comfort and security because I know I will be able to use it to call for help if I need to in the future."

- Amber M. (Saginaw, MI)



I am a domestic violence survivor and I am starting my life over with my two children. I currently have two jobs and pay rent and childcare expenses myself. I feel this phone will help me a lot. Thank you.

-Gekiya M.



"This phone has saved my life. I am a single mother of three and going to college. Within 48 hours of receiving this phone, I was assaulted. Had I not received this phone I would have never been in the position call 911. There was no one around at the time to help me. I am very grateful for the person at the tent who helped me get this phone. I went back to the tent a few days after my assault and thanked the agent for saving my life."

- Maria R. (Chicago, IL)

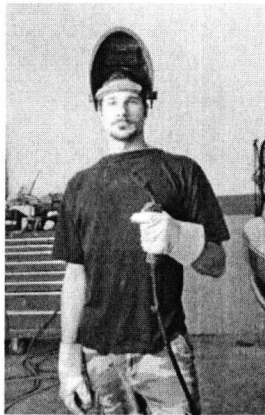


"I am a recovering addict. Me getting this phone and Lifeline service is going to be a fresh start of a new real life. Having this new phone will be the 1st thing that I will use to start my new life. Thank you so much!"

- Jenifer T. (Oklahoma City, OK)



VETERANS



"I'm a young Army veteran and a single father. I joined the service when I was 19 as a way to provide for my family. I've served for 6 years including tours in South Korea, Japan, Germany and Afghanistan. I income-qualify for Lifeline service. Since returning home, I've settled in a remote area of Nevada. I find occasional work as a freelance mechanic, but am struggling to find full-time employment. I use my Lifeline phone on my resume when applying for jobs and as a way to keep in touch with my family members that live far away."

-Brian S., Nevada

access **WIRELESS**



"I became homeless and am now living in a shelter My StandUP Wireless phone has helped me keep in touch with my family during a current time of personal crisis. It has helped them to know that I am in a safe place.

My StandUP phone has helped me keep doctor's appointments at the local Veteran's Association facility and it has helped me to have a phone to receive calls for future employment. Without the StandUP phone I'd have no way of communicating with anyone and therefore get out of this personal crisis.

Thank you for being there for me! "

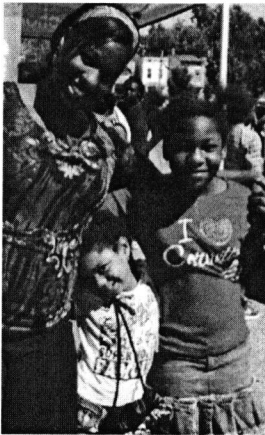
- Regina F.

StandUP
WIRELESS

FAMILY



Meet Aesha M. from Broken Arrow, Oklahoma. Aesha is a single mom of one with another child on the way. She was in need of a phone to get in contact with her doctors and family during her pregnancy. She was very thankful for our help and told me that having Lifeline service would help her out tremendously in this time of need.



"I have three young children and need to provide their schools with an emergency contact number in case they need to reach me. My Lifeline phone gives me peace of mind knowing that I can be reached if anything happens to one of them."

-Darnique J., Ohio



"I don't want to have to rely on this service, but for now anything that can help us save money is a lifesaver. We just moved to Cincinnati from Missouri to live with my Dad. I'm trying to find a job so that we can save some money to find a place of our own. My kids qualify for Medicaid, so I can use this phone to make their doctor's appointments."

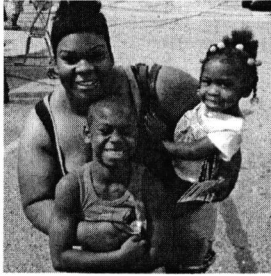
--Stephanie F., Kentucky



"Thank you for connecting our residents to Life Wireless' cell phone program. It may seem like such a simple thing to be able to place and receive calls, but when you are homeless and desperately trying to stabilize your family's life, having access to a reliable phone service is essential. Thank you so much for partnering with us to support these women."

- Julianna Janssen, Ascension Place (Minneapolis, MN)

FAMILY



"I am a single Mom with three kids. My ex-husband does not pay child support and I am solely responsible for taking care of our children. I clean houses and offices to make a living, but I need to know where my kids are and that they are okay when I'm working."

-Samantha L., Ohio

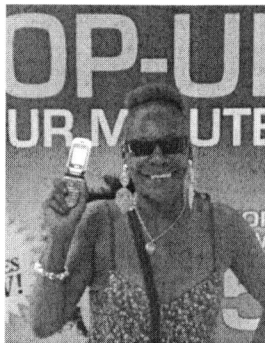
access **WIRELESS.**

SENIORS



"I am 77 years old. I am so thankful for this phone and Lifeline services because it will give my family peace of mind. I have had 7 heart attacks and have seven stints. Needless to say my family is concerned about me. I am glad to have this phone because my family can now have peace of mind knowing that they can get in contact with me and that I have a way to call in case of an emergency. Lifeline service means peace of mind to my family and I."

Edwina Neadeau



"I became a StandUp customer in February of 2013. I am delighted with the service. My two grandsons have asthma. More than once the pre-K or elementary school has called me on my StandUp phone to alert me that the asthma was acting up so I could take them home to their machine that provides breathing treatments. That would not have been possible in the year before receiving my Lifeline phone as I did not have phone service."

-Susan B.



"I use my lifeline to make doctor appointments and to help with my 78 year old grandmother who suffers from arthritis. She fell just the other day and she was able to call me on my phone so that I could come over and help her get back up."

- Shandia S. (Saginaw, MI)

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February 6, 2014

VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Notice of Ex Parte Presentation; WC Docket Nos. 11-42, 03-109

Dear Ms. Dortch:

On Tuesday, February 4, 2014, John Heitmann and Joshua Guyan of Kelley Drye & Warren LLP, on behalf of Boomerang Wireless, LLC; Global Connection Inc. of America; i-wireless LLC; Telrite Corporation; and Blue Jay Wireless, LLC, each members of the Lifeline Connects Coalition ("Coalition"), met with Amy Bender of Commissioner O'Reilly's office to further discuss the role of the members in the Lifeline program and the Notices of Apparent Liability ("NALs") recently issued to several Lifeline eligible telecommunications carriers ("ETCs") including three members of the Coalition – i-wireless, Telrite and Global Connection. On Wednesday, February 5, 2014, we met with Nicholas Degani of Commissioner Pai's office to discuss the same topics. We had met with Mr. Degani on January 23, 2014 and with Ms. Bender on January 24, 2014 to discuss these topics and filed an *ex parte* letter on January 27, 2014 detailing our discussions.¹

This week's meetings included topics and discussion consistent with the January 27, 2014 *ex parte* letter and we utilized the same exhibits with a few exceptions. First, at the meetings this week, we provided a new graphic (Exhibit A herein) illustrating the effectiveness of ETCs at screening out intra-company duplicates (approximately 95.5 percent and often better) even if all of the alleged duplicates in the NALs are in fact duplicates. Second, we provided a

¹ See Notice of *Ex Parte* Presentation of Boomerang Wireless, LLC; Global Connection Inc. of America; i-wireless LLC; Telrite Corporation; and Blue Jay Wireless, LLC, WC Docket No. 11-42, 03-109 (Jan. 27, 2014).

KELLEY DRYE & WARREN LLP

Marlene H. Dortch, Secretary
February 6, 2014
Page Two

graphic (Exhibit B herein) showing the different iterations of Wireline Competition Bureau guidance on what it views to represent a duplicate Lifeline subscriber – In-Depth Validation (“IDV”) instructions to USAC (same name and same address), Lifeline Biennial Audits (same name, date of birth and last four digits of social security number) and the National Lifeline Accountability Database (“NLAD”) seeding (same last name, date of birth and last four digits of social security number), as well as the standard USAC used in the IDVs that underlie the NALs (similar name and similar address). We emphasized that an enforcement proceeding is not the appropriate forum for the Commission to develop a policy for what constitutes a duplicate Lifeline subscriber (i.e., what data fields have to match or how similar how many data fields need to be).

In addition, at the meetings we provided an updated graphic (Exhibit C herein) showing the results of the Inter-company Duplicates Database (“IDD”) developed by CGM, LLC that these ETCs *voluntarily* check for inter-company duplicates when enrolling Lifeline customers. As of January 2014, the IDD includes more than 2.4 million lines and has prevented over 354,000 duplicate enrollment attempts since its inception. That equates to savings to the Lifeline program of \$4.1 million per month, which would be \$49.2 million annually.

We look forward to the launch of the NLAD beginning this month and to working with the Commission on a way forward that restores stability to the Lifeline program.

This letter is being filed electronically for inclusion in the public record of the above-referenced proceedings. Please feel free to contact the undersigned with any questions.

Respectfully submitted,



John J. Heitmann
Joshua T. Guyan

*Counsel to Boomerang Wireless, LLC; Global
Connection Inc.; i-wireless LLC; Telrite
Corporation; and Blue Jay Wireless, LLC*

Enclosures

cc: Amy Bender
Nicholas Degani

EXHIBIT A

LIFELINE CONNECTS

DUPPLICATE DETECTION

111111 **99.5%** 111111

111111 SUCCESS RATE 111111

111111 111111 111111 111111

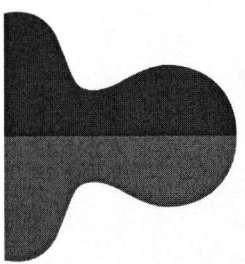
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EXHIBIT B

THE FCC PROVIDED CONFLICTING GUIDANCE ON WHAT CONSTITUTES A DUPLICATE



- False Name
- False Address
- False Date of Birth
- False Social Security Number

Wireline Competition Bureau Instructions to USAC for In-Depth Validations (IDVs)	USAC IDV Interpretation Folded Into NALS	FCC Biennial Audits Public Notice Proposal	National Lifeline Accountability Database
Same Name AND Same Address	Similar Name AND Similar Address	Same Name AND Same Date of Birth AND Same Last Four Digits of Social Security Number	Same Last Name AND Same Date of Birth AND Same Last Four Digits of Social Security Number

EXHIBIT C

GOING ABOVE AND BEYOND
**FCCC LIFELINE
REQUIREMENTS**

1 OUT OF **10** ENROLLMENT ATTEMPTS
BLOCKED...

VOLUNTARY INTERCOMPANY DE-DUPE DATABASE

TOTAL FRAUD

PREVENTION SAVINGS TO USE

\$4,100,000

A MONTH

\$49,200,000

A YEAR

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February 10, 2014

VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Notice of Ex Parte Presentation; WC Docket Nos. 11-42, 03-109

Dear Ms. Dortch:

On Thursday, February 6, 2014, John Heitmann and Joshua Guyan of Kelley Drye & Warren LLP, on behalf of Boomerang Wireless, LLC; Global Connection Inc. of America; i-wireless LLC; Telrite Corporation; and Blue Jay Wireless, LLC, each members of the Lifeline Connects Coalition ("Coalition"), met with Daniel Alvarez of Chairman Wheeler's office to further discuss the role of the members in the Lifeline program and the Notices of Apparent Liability ("NALs") recently issued to several Lifeline eligible telecommunications carriers ("ETCs") including three members of the Coalition – i-wireless, Telrite and Global Connection. The topics and discussion were consistent with the *ex parte* letters filed on January 27, 2014 and February 6, 2014 regarding meetings with the other Commissioners' legal advisors, and we utilized the same exhibits.¹

IDV Appeals and Enforcement Safe Harbor

We also discussed the fact that, as a result of the NALs, many ETCs including those in the Coalition have begun to appeal new In-Depth Validation ("IDV") findings letters

¹ See Notice of *Ex Parte* Presentation of Boomerang Wireless, LLC; Global Connection Inc. of America; i-wireless LLC; Telrite Corporation; and Blue Jay Wireless, LLC, WC Docket No. 11-42, 03-109 (Jan. 27, 2014) and Notice of *Ex Parte* Presentation of Boomerang Wireless, LLC; Global Connection Inc. of America; i-wireless LLC; Telrite Corporation; and Blue Jay Wireless, LLC, WC Docket No. 11-42, 03-109 (Feb. 6, 2014).

KELLEY DRYE & WARREN LLP

Marlene H. Dortch, Secretary
February 10, 2014
Page Two

from the Universal Service Administrative Company ("USAC"). Any ETC that has participated in an IDV that resulted in the allegation of any intra-company duplicates can (pursuant to the Commission's apparent strict liability standard) result in an NAL. It is clear that ETCs can be close to perfect at screening for intra-company duplicates,² but they cannot be perfect. The lack of perfection, however, does not signal that an ETC has ignored the Commission's rules or exploited the Lifeline program.

As part of the appeals, we have proposed that the Commission establish a safe harbor reflecting a minimum level of due diligence that a Lifeline ETC should employ to screen for duplicates. The goal of the Lifeline rules undoubtedly is to help to prevent subsidies from being paid for ineligible subscriber accounts. The Lifeline regulatory framework is a process-based, not a results-based, framework, but the Commission's Lifeline rules do not provide instruction to Lifeline ETCs regarding the actions needed to be taken in order to detect duplicates (however the term might be defined). Because no standard of conduct has been set, it is impossible for an ETC to know at this time what actions will be sufficient for screening for duplicates.

The safe harbor should identify the steps a Lifeline ETC should take in order to check for duplicate enrollments in its own records. We suggest that these steps should be satisfied by evidence that the ETC (1) has obtained a valid certification from the subscriber attesting, under penalty of perjury, that the subscriber is not receiving another Lifeline-supported service, and (2) has submitted the subscriber's record to an electronic screening process using the National Lifeline Accountability Database ("NLAD") (when available) or, where the NLAD is not available, using a state database, a third-party database of subscribers or the ETC's own subscriber records.

Provided that the Lifeline ETC can demonstrate receipt of a certification form satisfying Section 54.410(d) and electronic screening through the NLAD or other appropriate database, then the ETC would not be subject to retroactive liability for enrollment of the subscriber. If, after additional review via an IDV or otherwise, USAC or the Commission concludes that an account is a duplicate, the Lifeline ETC would be required to de-enroll the account as instructed. However, the Lifeline ETC would not be required to return any Lifeline benefits received prior to the determination that the account is ineligible. Moreover, the Lifeline ETC would not be subject to any potential fines or penalties for having enrolled the subscriber or

² Even if all of the duplicates alleged in the NALs are in fact duplicates, i-wireless would have been 99.7 percent effective at screening for intra-company duplicates, Telrite would have been 99.6 percent effective and Global Connection would have been 99.4 percent effective.

KELLEY DRYE & WARREN LLP

Marlene H. Dortch, Secretary
February 10, 2014
Page Three

having requested reimbursement for the subscriber prior to the USAC or Commission determination.

Moving Forward to Broadband

We discussed our appreciation for Chairman Wheeler's support for the Lifeline program and his desire to move the Lifeline program forward to support and provide broadband services for low-income Americans.³ These companies support the transition of the Lifeline program to support broadband service for low-income households and will be key to ensuring competition in the low-income and Lifeline markets to provide broadband service. The program does not benefit from having only one or two major wireless Lifeline providers. Rather, it is improved by the existence of competition in the marketplace, which has resulted in an increase in the standard free wireless minutes offering from 68 minutes to 250 minutes and improved text messaging offers. Broadband offerings for low-income Americans will be improved by having a healthy Lifeline ecosystem in the wireless marketplace with multiple ETCs that are able to attract adequate investment.

We look forward to the launch of the NLAD beginning this month and to working with the Commission on a way forward that restores stability to the Lifeline program and permits competition in the marketplace.

³ Chairman Wheeler Town Hall With Voices for Internet Freedom Coalition (Jan. 10, 2014, available at <http://www.politico.com/morningtech/0114/morningtech12673.html> ("I am big supporter of Lifeline...The idea of Lifeline for broadband is a legitimate concept, and we have to figure how to make it work.")).

KELLEY DRYE & WARREN LLP

Marlene H. Dortch, Secretary
February 10, 2014
Page Four

This letter is being filed electronically for inclusion in the public record of the above-referenced proceedings. Please feel free to contact the undersigned with any questions.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "John J. Heitmann". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

John J. Heitmann
Joshua T. Guyan

*Counsel to Boomerang Wireless, LLC; Global
Connection Inc.; i-wireless LLC; Telrite
Corporation; and Blue Jay Wireless, LLC*

cc: Daniel Alvarez

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JOHN J. HEITMANN

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November 17, 2014

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Notice of Lifeline Connects Coalition Oral *Ex Parte* Presentation;
WC Docket Nos. 11-42, 09-197

Dear Ms. Dortch:

On November 13, 2014, Brian Lisle and Susan Berlin of Telrite Corporation, Jeni Kues of i-wireless, LLC, Dave Skogen of Global Connection of America Inc., Jaime Palmer and Lauren Moxley of Blue Jay Wireless, LLC, Chuck Campbell of CGM, LLC and John Heitmann and Joshua Guyan of Kelley Drye & Warren LLP met with Ryan Palmer, Jonathan Lechter, and Melanie Tiano of the Wireline Competition Bureau ("Bureau"). The companies represented are the members of the Lifeline Connects Coalition that have joined together to protect and preserve the integrity of the Lifeline program by educating and separating myths from facts about the program, sharing best practices on compliance and industry self-regulation, and by proposing additional reforms dubbed "Lifeline Reform 2.0" to the FCC in a petition for rulemaking filed last year and updated in April 2014.¹

In the meeting, we discussed Commissioner Clyburn's speech² delivered at an event entitled "Reforming Lifeline for the broadband era" at the American Enterprise Institute on November 12, 2014.³ The Coalition supports Commissioner Clyburn's goal of modernizing the Lifeline program for the broadband era. Today's Lifeline program does not do enough to make

¹ See Lifeline Reform 2.0 *Ex Parte*, WC Docket No. 11-42 at 5-9 (Apr. 14, 2014).

² See http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db1112/DOC-330453A1.pdf (last visited Nov. 16, 2014).

³ See <http://www.aei.org/events/reforming-lifeline-broadband-era/> (last visited Nov. 16, 2014).

Marlene Dortch, Secretary
November 17, 2014
Page Two

broadband services affordable for low-income Americans. The speech raises many important questions and issues that should be considered as part of a further notice of proposed rulemaking as well as in the context of the Communications Act update underway in Congress.

Among those questions is whether wireless Lifeline eligible telecommunications carriers (“ETCs”) can include broadband in their popular “free” or no cost to consumer offerings, based on the current \$9.25 subsidy. In exploring this issue, the Commission will have to consider the impact proposals will have on program participation by consumers and service providers. Wireless ETCs successfully removed a significant barrier to consumers with their “free” service offerings and the result was a positive and meaningful increase in program participation. The Commission also must be mindful that a program that favors large providers or those with the most expansive retail presence may effectively limit competition and eventually result in less innovation and service to consumers.

The Commission also must assess proposed program administration changes carefully in terms of practicality. In 2012, the Commission acted to take the eligibility determination out of the hands of ETCs.⁴ However, the Commission’s 2012 Lifeline Reform Order mandate to develop a national eligibility database remains unrealized nearly a year after it was set to be completed. New proposals, including those that contemplate more complicated interaction with other federal benefit programs, should be assessed with this experience in mind.

New administrative proposals also must be assessed based on their costs. According to the 2013 USAC Annual Report, the percentage of USAC administrative expenses divided by total USF program disbursements was 1.29 percent.⁵ By comparison, the Supplemental Nutrition Assistance Program (“SNAP”) utilizes government entities to determine applicant eligibility and annual administrative costs are approximately 9 percent (about \$7 billion) of benefits paid.⁶ While

⁴ See *Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11, ¶ 403 (rel. Feb. 6, 2012).

⁵ See USAC 2013 Annual Report at 5, available at <http://www.usac.org/about/tools/publications/annual-reports/default.aspx> (last visited Nov. 17, 2014).

⁶ See Food and Nutrition Service, Supplemental Nutrition Assistance Program, Program Accountability and Administration Division, *State Activity Report, Fiscal Year 2013* at 2 (July 2014), available at <http://www.fns.usda.gov/sites/default/files/snap/2013-state-activity.pdf> (last visited Nov. 17, 2014) (showing total issuance of just over \$76 billion and just under \$7 billion in total costs).

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Marlene Dortch, Secretary
November 17, 2014
Page Three

the administrative costs for the entire USF were \$107 million in 2013, administrative costs for Lifeline would be \$162 million at 9 percent of total disbursements (\$1.8 billion in 2013).

The Commission also must assess the potential impact of coordination with other federal benefit programs based on the Lifeline program's participation rate and overall program costs. Lifeline is dramatically undersubscribed by comparison to many other federal benefits programs. Coordinated enrollment could result in a dramatic increase in program participation and corresponding costs. Because Lifeline is the Commission's only means-tested USF program, these issues require careful consideration. While it is undesirable to defer broadband funding for certain high cost locations and E-rate applicants, it is unacceptable to deny Lifeline service to an eligible consumer.

As part of its Lifeline modernization effort, the Commission should recognize that ETCs are a valuable part of the Lifeline ecosystem. The ETC designation process results in a degree of control and accountability that would not be present in a system with service providers freed from ETC market entry and oversight requirements. To achieve greater program participation, the Commission can and should streamline its own ETC designation process and set guidelines for the states. Additional actions can be taken to even-out and reduce regulatory burdens for ETCs while making sure that markets and consumers pick winners and losers (rather than regulators). Rationalization of the current framework will be an essential element of the Lifeline program's move to broadband. Businesses require predictability and certainty. With broadband capable smartphones being more costly than the handsets they will replace, the Commission must establish a regulatory framework that provides the predictability and certainty necessary for ETCs to invest and put broadband capable devices in the hands of consumers.

The Coalition stands ready to discuss Commissioner Clyburn's proposals and others with the Bureau in any context. There are many questions to be answered and we applaud Commissioner Clyburn for starting the process. The successful transition of the Lifeline program to broadband will require a tremendous focus on the details and collaboration among all stakeholders.

While moving the Lifeline program to broadband is both exciting and essential, there is much unfinished work to be done related to today's program. Accordingly, the Coalition members also discussed: (1) the efforts of the Lifeline Connects Coalition to protect and defend the Lifeline program at the Commission, in the media and on Capitol Hill; (2) the reform proposals of the Lifeline Reform 2.0 Coalition, including minimum requirements for state eligibility databases, retention of proof of eligibility and a "shot clock" for Bureau and Commission review and approval of pending items; (3) matters of importance to the Bureau, or pending or soon to be pending before the Bureau, including federal ETC petitions, the Lifeline Notices of Apparent Liability for alleged intra-company duplicates, In-Depth Validation appeals, and USAC Payment Quality Assurance ("PQA") appeals; (4) compliance plan modifications and Lifeline industry consolidation under the

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Bureau's July Public Notice;⁷ and (5) support for the TracFone Petition for Rulemaking and for Interim Relief proposing to count Lifeline subscriber text messaging as "use" of the Lifeline service for purposes of the 60-day non-usage rule,⁸ as well as counting data usage as "use" pursuant to the rules.

Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically.

Respectfully submitted,



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Counsel for Lifeline Connects Coalition

cc: Ryan Palmer
Jonathan Lechter
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⁷ See *Wireline Competition Bureau Reminds Carriers of Eligible Telecommunications Carrier Designation and Compliance Plan Approval Requirements for Receipt of Federal Lifeline Universal Service Support*, WC Docket Nos. 09-197, 11-42, Public Notice, DA 14-1052 (rel. July 24, 2014).

⁸ See TracFone Petition for Rulemaking and For Interim Relief, WC Docket No. 11-42 (filed Oct. 1, 2014).

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May 4, 2015

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Notice of Lifeline Connects Coalition Oral Ex Parte Presentation;
WC Docket Nos. 11-42, 09-197

Dear Ms. Dortch:

On April 30, 2015, Brian Lisle of Telrite Corporation; Jeni Kues of i-wireless LLC; Jaime Palmer of Blue Jay Wireless, LLC; Dave Skogen of Global Connection Inc. of America; and John Heitmann and Joshua Guyan of Kelley Drye & Warren LLP met on behalf of the Lifeline Connects Coalition (Coalition)¹ with Trent Harkrader, Jonathan Lechter, Garnet Hanly, Melanie Tiano and Regina Brown from the Wireline Competition Bureau (Bureau) and Eric Feigenbaum from the Office of Media Relations to discuss the Lifeline program. In the meeting, we discussed the membership and role of the Coalition, which formed to protect and preserve the integrity of the Lifeline program by educating and separating myths from facts about the program, sharing best practices on compliance and industry self-regulation, and by proposing additional reforms dubbed "Lifeline Reform 2.0" to the FCC in a petition for rulemaking filed in 2013 and updated in April 2014.²

We also discussed the new materials the Coalition has prepared regarding the Lifeline program, which are included in the exhibit. The first document describes the Coalition's 2015 priorities, which are competition, program integrity and broadband. The second document is meant to dispel myths that the Lifeline program is "fraud ridden" by showing that the

¹ The members of the Lifeline Connects Coalition are i-wireless LLC, Telrite Corporation, Blue Jay Wireless, LLC and Global Connection Inc. of America. Descriptions of each company are provided in the attached Exhibit.

² See Lifeline Reform 2.0 *Ex Parte*, WC Docket No. 11-42 at 5-9 (Apr. 14, 2014).

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Page Two

Commission's own Improper Payments Elimination and Recovery Act (IPERA) analysis estimates an improper payment rate of 0.32 percent for Lifeline in 2014. That compares favorably to the Government Accountability Office's estimate for the government-wide level of improper payments, which is 4.5 percent. The third document provides the Coalition's high-level principles for reform following the outline proposed by Commissioner Clyburn in her November 2014 speech to the American Enterprise Institute. Finally, the fourth document draws an important distinction between two different tracks of enforcement efforts related to the Lifeline program – one targeting actual criminal fraud and the other that involves allegations of duplicate enrollments by most of the major Lifeline providers, despite the Commission's failure to provide a clear and consistent definition of a duplicate and the industry's success rate of better than 99 percent at guessing what the Universal Service Administrative Company (USAC) would call a duplicate.

The Coalition members emphasized the need for the Commission and the Bureau to provide greater regulatory certainty, especially as the Lifeline program transitions toward broadband. Such regulatory certainty is an essential element of a healthy Lifeline ecosystem in which Lifeline eligible telecommunications carriers (ETCs) need to be able to attract investment necessary to improve products and services for Lifeline subscribers. Too many applications, appeals and requests for action have gone unanswered, with some items now pending for years.³ Instead of cancelling the various duplicate Notices of Apparent Liability (NALs) based on responses showing near perfect records at complying with a standard that should be transparent, the Commission delays (and denies) justice while continuing to ignore its own deadlines on related appeals of USAC audits.⁴ The Commission's failure to establish minimum standards for state eligibility databases is especially frustrating given that the agency is now more than a year late in delivering the national eligibility database.⁵

While the Commission's failure to act in many instances is inexplicable to investors, several recent agency actions have been even more disturbing. Since the *2012 Lifeline Reform Order*, the industry has struggled to understand the Bureau's role in transactions involving ETC designations or approved compliance plans. Last July, the Bureau "clarified" the order and announced that any "material" changes to an approved compliance plan, including changes in corporate ownership and control, must be pre-approved by the Bureau.⁶ The Public Notice provides

³ See *Ex Parte* Letter from John Heitmann to Marlene Dortch, WC Docket Nos. 11-42, 09-197 (Dec. 9, 2014).

⁴ See *id.*

⁵ See *Lifeline Reform 2.0 Ex Parte*, WC Docket No. 11-42 at 5-9 (Apr. 14, 2014).

⁶ See *Wireline Competition Bureau Reminds Carriers of Eligible Telecommunications Carrier Designation and Compliance Plan Approval Requirements for Receipt of Federal Lifeline Universal Service Support*, WC Docket Nos. 09-197, 11-42, Public Notice, DA 14-1052 (rel. July 24, 2014) ("Compliance Plan Change Public Notice").

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Page Three

no guidance on what constitutes a material change and fails to establish timelines for Bureau review and approval of such changes (the last compliance plan was approved in December 2012). At a time when the Commission should be fostering an environment that strengthens Lifeline providers so that they are prepared to play their important part in the transition of Lifeline to broadband, the regulatory uncertainty created first by the *2012 Lifeline Reform Order* and then by the Public Notice serves as a barrier to natural marketplace activity (e.g., industry consolidation) that could result in improved service offerings to consumers.

The Bureau's recent creation of "production duplicates" and the unprecedented resolution of them also upended investments based on the reasonable expectation that an enrollment screened by the National Lifeline Accountability Database (NLAD) would not later be re-screened to effectively revoke an approval. Accordingly, we urged the Bureau to ensure that any future changes to the NLAD duplicate definition are made on the "front end" so that potential duplicate applications are denied or recast as a benefit port and duplicate enrollments are not permitted to enter the NLAD. Although the new third party identity verification (TPIV) dispute resolution process is fundamentally unfair to ETCs and consumers,⁷ wireless Lifeline providers are also reticent to use the TPIV dispute resolution process because the last time they did so, the Bureau and USAC used the fact that the TPIV exceptions process was used to enroll applicants as cause to de-enroll subscribers that were later alleged to be duplicates without giving them a choice in Lifeline providers.⁸

We also discussed misconceptions regarding the fact that some Lifeline providers have reported low annual recertification rates and whether that indicates that Lifeline subscribers do not value the service. First, Lifeline providers have reported positive recertification rates as high as nearly ninety percent. Therefore, if an ETC is able to develop the necessary processes to make the recertification process accessible to Lifeline subscribers, the subscribers do recertify because they value the service. Second, the primary reason Lifeline subscribers fail to recertify is not that they

⁷ It is unfair to ETCs because they must incur the costs of activating a phone number and a service plan prior to receiving NLAD approval for the enrollment if they want to enroll an applicant that fails the NLAD TPIV check by submitting a dispute resolution. It is unfair to consumers because they are required to prove the accuracy of all information provided for the enrollment (e.g., first name, last name, date of birth and social security number) even if only one field cannot be matched by Lexis Nexis and even though Lexis Nexis data is not intended to be perfect.

⁸ Mandating the de-enrollment of all "production duplicates" that did not pass the initial TPIV check, rather than using the previously announced and established duplicate resolution process utilized in 2014 and in each and every inter-carrier duplicate scrubbing process since 2011, was fundamentally unfair to Lifeline providers that followed the Commission's rules and USAC's processes required at the time for TPIV. See Lifeline Reform 2.0 Coalition *Ex Parte* and Request for Immediate Relief, WC Docket No. 11-42 (Mar. 1, 2015) and Lifeline Reform 2.0. *Ex Parte*, WC Docket No. 11-42 (Mar. 17, 2015).

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are not eligible or do not value the service, but that the process is long, difficult and involves understanding complicated legalese contained in the disclosures and certifications.

Critical to the evolution of Lifeline toward broadband, we also discussed the need to count the use of data and Internet services on phones as "usage" pursuant to the Commission's rules so that customers that use the advanced services promoted by the Commission are not de-enrolled because they did not make a voice call.

Finally, we expressed appreciation for the Bureau's hard work on the Lifeline program and our desire to continue this dialogue regarding the Lifeline program as the Commission considers a notice of proposed rulemaking.

Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically.

Respectfully submitted,



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cc: Trent Harkrader
Jonathan Lechter
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Melanie Tiano
Regina Brown
Eric Feigenbaum

EXHIBIT



i-wireless LLC



i-wireless LLC (doing business as Access Wireless) is an eligible telecommunications carrier (ETC) headquartered in Newport, Kentucky, just outside of Cincinnati, Ohio. The Company provides wireless service in all fifty States and is an approved ETC for the Lifeline program in 35 states and the District of Columbia. i-wireless serves approximately 820,000 Lifeline customers nationwide.

Founded in 2005, i-wireless activated its first customer in 2006, and received its first Lifeline ETC designation in 2011. The company directly employs 65 full-time and 20 part-time/contract staff. In addition, our outsourced call center, IT, compliance and accounting vendors employ the equivalent of 110 full-time employees on our behalf.

As a subsidiary of The Kroger Company, the nation's largest traditional grocery retailer, i-wireless is uniquely positioned to serve the needs of a large population of Lifeline-eligible Americans.

Operating 2,625 grocery stores across 34 states and hundreds of small communities, Kroger serves millions of customers that are participants in other entitlement programs, with a strong concentration in both the Supplemental Nutrition Assistance Program (SNAP) and Medicaid programs. Educating these customers about the availability of Lifeline and then providing them with a convenient method of securing the service is a valuable public benefit and a distinct competitive advantage.

The company is strongly determined to provide its customers with the highest-quality Lifeline experience, and it does so by adding value in ways unique to our core grocery retailing relationship. As an example, today this includes providing free and discounted food as a reward for loyalty, loaded in the form of an electronic coupon on the customer's loyalty card and redeemable in-store.

In the future we intend to expand upon this experience, providing our Lifeline customers with access to expanded nutritional information, proprietary grocery savings and free samples, and discounts or free access to a number of other related categories (including fuel, education, financial planning and services, and healthcare).

Access Wireless Lifeline beneficiaries tell their stories about:

Getting a job. "I'm a young Army veteran and a single father. I joined the service when I was 19 as a way to provide for my family. I've served for 6 years including tours in South Korea, Japan, Germany and Afghanistan. I income-qualify for Lifeline service. Since returning home, I've settled in a remote area of Nevada. I find occasional work as a freelance mechanic, but am struggling to find full-time employment. I use my Lifeline phone on my resume when applying for jobs and as a way to keep in touch with my family members that live far away." (Brian S., Nevada)

Keeping a job and coordinating childcare. "I'm a single Mom. My son's father died of a drug overdose and I'm [on] my own trying to support my little boy and I. I work part-time in a call center and rely on family members to help me with childcare. When I get the chance to work overtime and make more money, I use my Lifeline phone to call friends or family and ask for additional help in watching my son. We need the extra money, so it's important that I don't pass up those opportunities to earn some extra cash." (Amy R., Kentucky)

Serving clients. "I used to work in a beauty shop, but I couldn't afford the rent any longer so now I cut hair out of my apartment. My clients need a way to contact me to schedule appointments. I rely on my Lifeline phone so that they can reach me. If they call and I'm not available, they'll go somewhere else." (Charlene P., Arizona)

Emergencies. "I am a single Mom of four boys. I have used my Lifeline phone to call 911 on two separate occasions. Once when a field next to our home caught fire and once when my 6-year old had a fishing lure hooked in his leg. I was able to quickly call for the paramedics. I'm so thankful to have my Lifeline phone." (Juanita E., Tennessee)

"I called 911 from my Lifeline phone because my friend went into a diabetic coma. She was rushed to the hospital and in ICU for over a week." (Melissa E., Georgia)

Healthcare. "I have a fixed income and can barely afford to pay for my medication every month. My daughter lives out of town and my Lifeline phone is the only way that I have to stay in touch with her. I also use it to make my doctor's appointments and get my prescriptions refilled at the pharmacy." (Henry T., Colorado)

Family. "I am an elderly caregiver and am trying to pursue an education while balancing a full-time job and the needs of a family. Having a Lifeline phone allows me to check in to make sure my son got off the school bus okay and made it home safely. I can also check in to make sure that my ailing mother is doing ok." (Charese M., Indiana)

"I am a single Mom with three kids. My ex-husband does not pay child support and I am solely responsible for taking care of our children. I clean houses and offices to make a living, but I need to know where my kids are and that they are okay when I'm working." (Carol S., Colorado)



Blue Jay Wireless, LLC

About Blue Jay

Blue Jay Wireless, LLC ("Blue Jay" or the "Company") is an eligible telecommunications carrier (ETC) headquartered in Carrollton, Texas near Dallas www.bluejaywireless.com. Blue Jay currently employs approximately 100 full time employees and is authorized to provide Lifeline services in 16 states or jurisdictions including Arizona, Colorado, Hawaii, Kentucky, Michigan, Minnesota, Missouri, Nevada, Oklahoma, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Texas, Wisconsin and Utah with additional licenses pending for national expansion.

Blue Jay Wireless is a prepaid wireless telecommunications company focused on serving the disadvantaged and disabled lower-income consumer demographic in the U.S. with both Lifeline and non-Lifeline services. Blue Jay was founded on the belief that everyone should have access to the safety and convenience of wireless service. Blue Jay provides affordable prepaid wireless service including basic voice and text services with options for data upgrades on nationwide networks. Blue Jay's products and plans are specifically geared toward serving lower income communities (including lower income Spanish speaking communities) and disadvantaged citizens as reflected by its service models, handset options, pricing plans and bilingual customer service support.

Mission Statement

Blue Jay Wireless is driven by its mission for its Samaritans to connect disadvantaged citizens with employers, family and friends so no one is left behind. Blue Jay Samaritans are courageous individuals who inspire us all, each having overcome unique life challenges of their own. Some have graduated homelessness, some have overcome a disability, and many are Veterans which have served in the Military.

Blue Jay Samaritan Program

The Blue Jay Samaritan Program was begun by Blue Jay Wireless in November 2014 as a way to advance career opportunities for people who have already given something to our community in the past or have overcome a unique life challenge. Some Samaritans are people who have overcome a disability or a life challenge and are ready to give back to the community while simultaneously creating an opportunity for themselves. Many Samaritans are Military Veterans who have proven they know how to give to and support the community through the services and sacrifices they have already made. Samaritans are on the front line of our distribution channel and they handle the first steps of new subscriber enrollment. Blue Jay has an established track record of working within the communities it serves to provide employment opportunities to those who need them the most. As an example, to date, Blue Jay has employed over a dozen people from the Samaritan Inn, the largest homeless shelter in Collin County Texas, who have graduated from homelessness to employment. Additionally, as of April 2015, there are approximately **50 Samaritan employees enrolling subscribers for Blue Jay who are Veterans or disabled Veterans** having previously served in the Military. Through its Samaritans and the Lifeline Program, Blue Jay is attempting to help our entire community grow and prosper as we all move into the 21st century together.



Blue Jay Lifeline Beneficiaries Tell Their Stories About Transitioning to Employment

"I had been struggling to find work before I received my Blue Jay Wireless phone. I had no number to put on my applications and had to tell potential employers that I did not have a phone. Once I obtained the phone, I updated my resume to include my number and immediately started receiving calls back. Within one month, I obtained full-time employment. Thank you Blue Jay Wireless for helping me and my family." (Denise)

"I was introduced to Blue Jay Wireless in 2013 while residing at the Samaritan Inn. I was brought on as a temporary employee and was offered a full-time position one week later. I could tell immediately that I was embarking upon something special. The company has renewed my confidence in the old saying "hard work pays off." I am looking forward to being part of the team for years to come." (Jeremy)

"I became a customer of Blue Jay when my family and I fell on hard times and had to enroll in SNAP. The service was a godsend as we could no longer afford the monthly payments we were making for our existing prepaid service. After being hired as a Blue Jay agent, I have been able to support my family. And now I get the opportunity to make a difference in someone else's life by providing others in need with affordable phone service." (Jerardo)

"I applied for a job with Blue Jay through Larimer County Workforce in Colorado. I was attending Employment First job training where Blue Jay presented their Lifeline service offerings for qualified customers. What I enjoy most about working for Blue Jay is having the opportunity to meet and hear the stories of so many people from diverse backgrounds whose lives will be improved by having this phone service." (Greg)



Telrite Corp. d/b/a Life Wireless

Telrite Corp. (doing business as Life Wireless) is an eligible telecommunications carrier (ETC) headquartered in Covington, Georgia and established in 2010. Today over 500 employees and contractors work for Telrite. Under the Life Wireless brand, Telrite provides Lifeline services in 31 jurisdictions – Arizona, Arkansas, Colorado, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Kansas, Maine, Maryland, Michigan, Minnesota, Missouri, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Texas, United States Virgin Islands, Utah, Vermont, Washington, West Virginia and Wisconsin. As of March 2015, Life Wireless served over 657,000 Lifeline customers.

Life Wireless' mission is to drive awareness and availability of the Lifeline program to underserved markets across the U.S. in order to reach those most in need of affordable phone service. Its field representatives organize sales events in the community, often partnering with local nonprofit organizations, helping Life Wireless reach Lifeline-eligible populations overlooked by other Lifeline companies that rely predominantly on advertising (internet, outdoor, mail, etc.) to attract eligible subscribers.

Life Wireless is proud to be a part of the Lifeline program, helping those most in need stay connected to loved ones, employers, medical providers, and emergency service providers. Life Wireless is committed to preserving the integrity of the Lifeline program and has been an industry leader on compliance issues. For example, the company has developed a rigorous program of training and compliance, including mandatory training for field representatives through Life Wireless University, real-time monitoring of all enrollment locations and activity for any anomalies, and daily "photo audits" of enrollment locations to ensure proper placement of required disclosures and orderly appearance of the enrollment site and field representatives.

Since 2014 Life Wireless has participated in "Hiring Our Heroes" events in 17 States leading to 14 individuals becoming representatives of Life Wireless since 2014. "Hiring Our Heroes," a program of the U.S. Chamber of Commerce Foundation, was launched in March 2011 as a nationwide initiative to help veterans, transitioning service members, and military spouses to find meaningful employment opportunities. Life Wireless currently has over 30 veterans on its active field representative roster. In addition to "Hiring for Heroes," Life Wireless actively works with Goodwill of North Georgia and its First Choice Veterans employment program to staff its Marietta, GA network operation and customer service centers and works with various Goodwill operations throughout the country on staffing issues.

Life Wireless Lifeline beneficiaries tell their stories about:

Getting a Job. "I have a 2 year old son and I am currently expecting my second child. I am also taking care of my mother. Recently I have been searching for a job. Before I had this phone I would have to

write down contact numbers of family and friends on job applications in hopes that potential employers would somehow be able to contact me. Within just a few short weeks of receiving this phone I was able to retain employment. Without this phone, it would not have been possible to get this job and help support my family. I am extremely grateful for this service." (Brandy W.)

"This is very helpful without my phone I could not make the phone calls to inquire about employment. I just received a call about an hour ago from an employer to schedule me for an interview. Without this phone that would not have been possible. This service has been very helpful. This phone is a blessing." (Edward B.)

Healthcare. "This has helped a lot with doctors for me and my husband. My husband has blood issues and I am a diabetic. It has helped me be able to talk to the doctors and make appointments for me and my husband. He has to go to the doctor several times a week for blood thinning medicine. We are both looking for a job right now so this cell phone helps with that too. I would not be able to talk to my doctor if it weren't for this phone." (H. Rodriguez)

"I use my lifeline to make doctor appointments and to help with my 78 year old grandmother. My grandmother suffers from arthritis. She fell just the other day and she was able to call me on my phone so that I could come over and help her get back up. This phone also allows me to communicate with my children so that I know they are all safe." (Shandia S.)

Veteran's Care. Tim is a six-year veteran of the U.S. Air Force who is now wheelchair-bound after suffering from Lyme disease. He uses his Life Wireless phone to stay connected in case of emergencies and remain an active member of his community. "Before I had the phone, I would be stranded without communication if something was to go wrong and I was away from home. Regular cell phone plans are so expensive they are beyond my reach, but the Life Wireless phone keeps me rolling," says Tim. "It's become a link for me to live a higher quality life. I'm a much more active member of my community than I was before I had the Life Wireless phone." (Tim H.)

Emergencies. Maria, a single mother from Chicago, used her Life Wireless phone to call 911 when she was assaulted. She credits the phone with saving her life. She also used the phone to contact a domestic violence center, where she found safe temporary housing. "There are two single mothers at the Rescue Center where I am staying that have do not own cell phones," she said. "We are going to help them get a Lifeline phone for their safety in emergency situations also. I strongly believe this program." (Maria R.)

"We had a family emergency. My daughter went into premature labor and had to deliver my grandson via emergency C Section at 29 weeks. He was born weighing 3lbs 8oz so he is in the NICU. Having this phone has allowed me to be able to communicate with my daughter while she was in the hospital, stay informed on the progress of my grandson and arrange for my granddaughter to be cared for while her mother is with my grandson in the hospital. We live in separate cities so communicating over the phone is very important. Having this phone makes it possible for our family to connect and create [a] strong support system for each other during this difficult time." (Margerei B.)

Overview of who we are and what we do:

Global Connection Inc of America, of Norcross GA, was founded in 1998. We provide service to both wireless and wireline customers. Our wireline brand is Real Home Phone and our wireless brand is Stand Up Wireless. We currently employ 55 people, and, through partners, support another 45 US jobs. We currently serve customers in twenty nine states: Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Ohio, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Tennessee, Texas, Utah, West Virginia and Wisconsin.

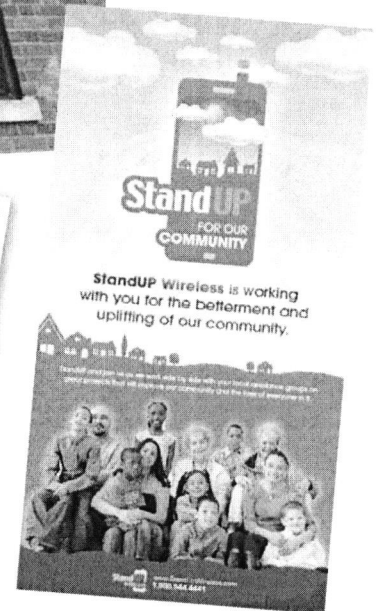
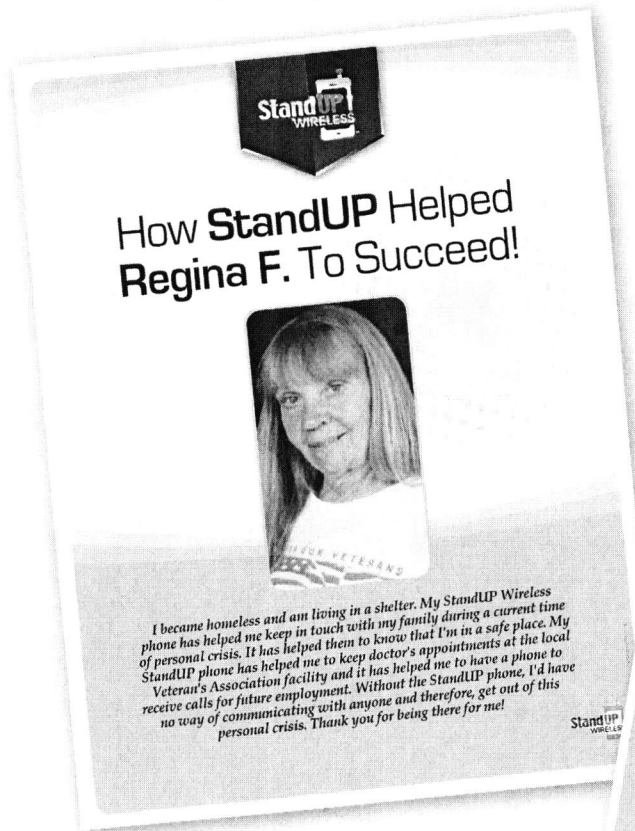
Our Wireless and Wireline
phone service brands



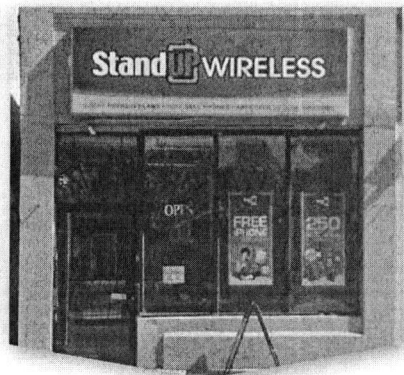
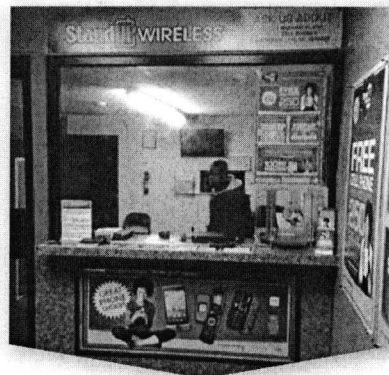
GCIOA stands out in several important ways:

- We are one of the few Lifeline providers that offer customers a choice between home phone and wireless service, depending on their unique needs.
- We take pride in our "A+" rating from the Better Business Bureau.
- To better serve our customers, we utilize American based call centers, providing dozens of U.S. jobs.
- StandUP Wireless believes it is critical to integrate closely with the communities it serves and has instituted a "For the community, In the community, With the community" strategy. In support of that, we established company branded, brick and mortar locations in multiple states including Arizona, Georgia, Louisiana, Maryland, Ohio, Pennsylvania and Wisconsin. In addition to providing local employment, these outlets allow for face-to-face customer sales and service. We have found that this environment is especially valuable to our more senior customers as they benefit from hands on instruction on how to best use our products.
- Global understands that customer requirements are continually evolving and that Internet access is a critical and growing need. That is why we are launching new data-enabled prepaid products through a network of up to 20,000 retail locations in lower income areas. On all of the products, eligible consumers will be able to apply Lifeline discounts after appropriately enrolling in the program. Under this program, customers will be able to purchase an Internet enabled smart-phone for \$45.00 and have voice, text and data service for as low as \$7.95 per month (plus tax and after the Lifeline discount).
- Global is the proud sponsor of the holiday food drives and sports and dance teams of Omaha, Nebraska's Wakonda Elementary School (Go Wildcats!), inner-city basketball in Atlanta, the Gwinnett County Georgia Latino Food Drive and Cultural Expo and Autism Speaks in Philadelphia.

Lifeline makes a big difference in our customers' lives



Our retail locations



Lifeline Connects Coalition

Lifeline 2015: Competition, Program Integrity and Broadband

The Lifeline Connects Coalition was formed in 2012 in response to concerns about potential waste, fraud and abuse in the federal Universal Service Fund (USF) Low-Income Program known as Lifeline. The Coalition's compliance-centric member companies deliver wireless communications services across the United States and include Blue Jay Wireless, Global Connection, i-wireless, and Telrite Corporation.

A well-run and effective Lifeline program re-engages underserved individuals in our increasingly digital economy by enabling the unemployed to apply for jobs and be reachable to potential employers. Additionally, the program plays a vital role in helping vulnerable populations such as the elderly and disabled to access healthcare services, which can reduce healthcare-related expenses.

Since 2012, the Coalition has advanced best practices and proposals for further reform to enhance the integrity and efficient operation of the Lifeline program. Although the 2012 reforms adopted by the Federal Communications Commission (FCC) have stabilized the program and placed it on a sound regulatory footing, other FCC actions or the lack thereof work to the detriment of the program.

Mobile and broadband communications are essential to ensure full participation in our economy and society, and the FCC must do more to ensure that Lifeline continues to serve as the "lifeline" it was intended to be by providing affordable access to these essential forms of communication.

As Congress considers the #CommActUpdate, and the FCC contemplates further reform to the Lifeline program and its transition to broadband, the Coalition offers the following priorities:

Competition and Program Administration. Stakeholders and policymakers all agree that Lifeline subscribers should benefit from competition and the Lifeline program must be run efficiently and effectively.

- **Competition.** Consumers are the ultimate beneficiaries of competition in the Lifeline program, providing them with access to additional airtime, data allowances, higher quality handsets and meaningful choices in service offerings. Today, competition is being artificially constrained by the failure of the FCC to act on long-pending petitions to operate in the 12 "federal jurisdiction states" and other pending items. The resulting regulatory uncertainty deters innovation and investment.
- **Program Integrity.** The FCC's seminal Lifeline program reform – the National Lifeline Accountability Database (NLAD) – was delivered by the Universal Service Administrative Company (USAC) a year late and without some of the functionality mandated by the FCC in its 2012 Lifeline Reform Order. Although the vast majority of duplicate enrollment attempts are blocked by NLAD, the missing functionality and a poorly conceived identity verification process have contributed to duplicate enrollments being approved by NLAD. The Coalition members continue to offer the FCC and USAC advice on improvements to duplicate detection and identity verification through the NLAD.
- **Enrollment and Eligibility.** In most instances, ETCs do not determine a consumer's eligibility for Lifeline. Today's Lifeline program relies primarily on eligibility determinations made by other federal program administrators and leverages enrollment and eligibility verification platforms

built and paid for by ETCs. This public/private partnership approach is highly effective and efficient. Today's Lifeline program administration costs are 1.52%. By comparison, a voucher program such as SNAP has program administration costs of approximately 9%. The Coalition supports the creation of a national Lifeline eligibility verification database. Unfortunately, that database has yet to be created notwithstanding the December 2013 deadline the FCC set for itself. Therefore, the FCC should establish minimum standards for state eligibility databases so that Lifeline providers can effectively confirm applicants' eligibility in real-time.

- **Enforcement.** The FCC vigorously has pursued enforcement actions to root out fraud in the Lifeline program, resulting in criminal charges against a small number of ETCs and citations to several hundred consumers. However, the FCC also has proposed massive penalties against ETCs that have had a much better track record of preventing duplicate enrollments than the FCC has had with the NLAD. These massive proposed fines for alleged duplicate rates of a fraction of one percent threaten the viability of ETCs by creating unnecessary doubt about them and the Lifeline program. In addition, dueling and duplicative investigations by the FCC's new Enforcement Bureau "Strike Force" and Office of Inspector General waste government resources, impose unreasonable costs on ETCs, and deny benefits to eligible consumers. A rational, proportional and effective system of investigations and enforcement is essential to a healthy Lifeline program.

Transition to Broadband. The Lifeline Program must follow the other USF programs and transition to support broadband and data services.

- **Low-Income Consumers Need Internet Access.** Today, access to affordable communications is the single greatest challenge facing those seeking to break the cycle of poverty. The Social Science Research Council has found that the strongest drivers for low-income Americans' need to access the Internet are access to employment, education and government services. Increasingly (and in some cases, exclusively), job applications, healthcare, government services, education and community support are available "online." Lifeline also is the USF program best suited to help solve the "homework gap." However, today's Lifeline program is the only USF program that does not focus support on broadband. To achieve its purpose, Lifeline must do more to bring affordable broadband access to low-income Americans.
- **Mobile Broadband Is the Future of Lifeline.** Low-income Americans already choose to have a phone in their pocket (rather than on the kitchen wall) and studies indicate that is where they are most likely to make the most use of broadband. According to the most recent data published by the Centers for Disease Control and Prevention (CDC), 59.1% of low-income Americans do not have landline phone service and rely on mobile communications. A mobile broadband connection can be used on a bus, on a work break, at a school, in a library and at home. Today, more than 85% of Lifeline benefits support wireless service. A modernized Lifeline program must do more to make affordable access to mobile broadband a reality for low-income Americans.

Lifeline Connects Coalition
Fact Checker: Waste, Fraud and Abuse in Lifeline
and in Comparison to other Federal Benefit Programs

Recently and over the past four years, some have called the Lifeline Program “one of the government’s most fraud-infested programs.” *This wasn’t a true statement four years ago and it’s not true today.* The latest statistics from the Federal Communications Commission (FCC) show that the Lifeline Program in 2014 had an improper payment rate of 0.32% which is significantly lower than the federal government average.

The Improper Payments Elimination and Recovery Act (IPERA) requires federal agencies such as the FCC to develop an oversight process to identify and address improper payments from government disbursement programs such as the federal Universal Service Fund (USF).

The IPERA defines an “improper payment” as any payment that should not have been made or that was made in an incorrect amount under statutory, contractual or administrative requirements. An improper payment includes, but does not necessarily involve, fraud. “Significant improper payments” are improper payments exceeding 1.5% of program outlays and \$10 million or \$100 million.

- **Lifeline has a very low improper payment rate.** According to the FCC’s Fiscal Year 2014 Agency Financial Report, “the estimated improper payment rate for [Lifeline] was **0.32%** for fiscal year 2014.” The total extrapolated amount of improper payments was \$5.9 million (out of a \$1.6 billion program). Lifeline is far from “fraud-infested.” Rather, the program is the victim of sensational “gotcha” media pieces and political rhetoric that feed a perception of fraud not borne out by the facts. See <http://www.fcc.gov/document/fiscal-year-2014-agency-financial-report>.
- **Lifeline has an improper payment rate that is much lower than the government average.** According to a March 2015 Government Accountability Office (GAO) study, the estimated federal government-wide improper payments rate for fiscal year 2014 was **4.5%** of program outlays and totaled \$124.7 billion. The error rate was up from 4% in fiscal year 2013. See <http://www.gao.gov/assets/670/669026.pdf>.
- **Lifeline has an improper payment rate that is much lower than that of the E-rate Program.** The FCC FY 2014 report found that the estimated improper payment rate for the Schools and Libraries Program (known as E-rate) was **3.47%** (or 3.81% including the Equipment Inventory Pilot), which is up from 2.21% in 2013. E-rate is certainly not fraud-invested either (its error rate is below the government average), however, its rate of improper payments is nearly **11 times** higher than Lifeline.

Improper Payments: Lifeline in Comparison to other Programs

Lifeline is not “one of the government’s most fraud-infested programs.” Based on GAO studies of fiscal years 2013 and 2014, a comparison of Lifeline to other government programs shows that Lifeline has a comparatively low level of improper payments.

Program	Program Size	Percentage Improper Payments	Comparison of Improper Payments in Program vs. Lifeline
Earned Income Tax Credit	\$17.7 billion (FY 2014)	27.2% (FY 2014)	85 times higher than Lifeline
Small Business Administration Disaster Loan Disbursements	\$121 million (FY 2013)	18.4% (FY 2013)	57.5 times higher than Lifeline
Department of Veterans Affairs State Home Per Diem Grants	\$135 million (FY 2013)	15.94% (FY 2013)	nearly 50 times higher than Lifeline
Medicare Fee-for-Service	\$45 billion (FY 2014)	12.7% (FY 2014)	nearly 40 times higher than Lifeline
Department of Labor Unemployment Insurance	\$5.6 billion (FY 2014)	11.6% (FY 2014)	36.25 times higher than Lifeline
Lifeline	\$1.6 billion (2014)	0.32% (FY 2014)	-

See 2014 <http://www.gao.gov/assets/670/669026.pdf> and 2013 <http://www.gao.gov/assets/670/667332.pdf>.

Improper Payments: Lifeline Historical

Lifeline is not today and has not been “one of the government’s most fraud-infested programs.” Over the past four years, Lifeline’s potential for significant improper payments has remained low. A 2014 FCC study found that the rate of improper payments in the Lifeline Program was extremely low.

Year	IPERA Threshold	Notes	Lifeline Improper Payments
2011	2.5%	Lifeline not at risk	(less than 2.5%)
2012	2.5%	Lifeline not at risk	(less than 2.5%)
2013	2.5%	Lifeline designated as susceptible to significant improper payments	2.5% threshold met
2014	1.5%	Study of actual calendar year 2013 transactions	0.32%

Lifeline Connects Coalition 2015 Principles for Lifeline Reform

Principles for Reform. *Modernization of the Lifeline program will require smart reforms designed to further a healthy Lifeline ecosystem with government, consumers and service providers each doing their part to ensure the continued success and viability of the program.*

- **Value and Accessibility.** Minimum service standards can help ensure good value is returned for Lifeline subsidy dollars. However, competition is the most important driver of value and the Federal Communications Commission (FCC) should preserve the ability of Lifeline providers to offer “free” services that have proven effective in furthering adoption of mobile technology and program participation. It is unlikely that wireless Lifeline providers can include substantial amounts of broadband in their popular “free” or no cost to consumer offerings, based on the current \$9.25 subsidy.
- **Accountability and Dignity.** Today, Lifeline program eligibility determinations are a shared responsibility of ETCs, states and the FCC. Service providers play a role (but in no case are they the sole arbiter of an individual’s eligibility) because the FCC has failed to deliver a national Lifeline eligibility database and has failed to provide guidance to states that could offer their own databases. There are few cases where this multifaceted approach has raised concerns of waste, fraud or abuse. Such vulnerabilities can be addressed effectively on a collaborative basis, without the need for creating a massive new bureaucracy or by setting goals that are likely unobtainable from a practical or even financial perspective. More can be done to ensure that consumers and their personal information are treated with dignity and care. While many low-income Americans do not have easy access to retail stores or the Internet, best practices can ensure a dignified enrollment experience that respects the privacy of consumers.
- **Improved Process and Competition.** The Lifeline program would be well served by program administration at the FCC, USAC and state commissions that works on and respects deadlines, provides timely and reliable guidance, nimbly addresses ambiguities and vulnerabilities, and values effective and constructive collaboration with all stakeholders. Streamlined eligible telecommunications carrier (ETC) designation processes and rationalization of audits and enforcement activity also would produce greater industry participation, competition and benefits for consumers.
- **Leveraging Efficiencies.** While the goal of leveraging technology used by and perhaps even coordinating enrollment with other federal benefit programs serving low-income Americans is worth exploring, we live in a country where benefit disbursement reflects a complicated patchwork of federal and state agencies, unique statutory mandates, and public-private partnerships. While program efficiencies and synergies should be sought, the Lifeline program should not be held back for the sake of seeking efficiencies that are not reasonably obtainable by the government for practical, financial or other reasons. In seeking out efficiencies, care should be taken not to unwittingly deter private parties from developing solutions or to limit competition and consumer choice by mandating solutions that favor large service providers. A healthy Lifeline program will attract new entrants and smaller providers focused on serving the needs of low-income Americans.
- **Public-Private Partnerships.** A healthy Lifeline ecosystem requires government, consumers and industry to act affirmatively, creatively and responsibly. A transition to broadband will require healthy service providers that can attract entrepreneurial talent and investment, deliver compelling handsets and products, and successfully tackle the adoption challenges facing low-income Americans.

Lifeline Connects Coalition Federal Communications Commission Lifeline Enforcement

The FCC recently has been involved with two very different tracks of enforcement with respect to the Lifeline Program. The first involves allegations of criminal fraud committed by certain eligible telecommunications carriers ("ETCs"), their owners and agents. These ETCs, individuals and allegations do not involve Lifeline Connects Coalition member companies. The second track of enforcement involves allegations of duplicate enrollments by most of the major Lifeline providers, despite the FCC's failure to provide a clear and consistent definition of a duplicate, including when differences in data provided by consumers under penalty of perjury should be disregarded.

Allegations of Criminal Fraud

- On April 10, 2014, the Department of Justice announced that three Associated Telecommunications Management Services LLC ("ATMS") executives were indicted on charges of one count of conspiracy to commit wire fraud and 15 substantive counts of wire fraud, false claims and money laundering for their alleged role in a scheme to submit false claims to the Universal Service Administrative Company ("USAC") for Lifeline reimbursements. A federal court in Florida issued a seizure warrant for the defendants' ill-gotten gains (\$32 million), a yacht and several luxury cars. This case is pending. The FCC's Office of Inspector General ("OIG") contributed to this case.
- On April 25, 2014, Oscar Perez-Zumaeta was served with a criminal complaint for conspiracy to make false statements to the government by providing to ICON Telecom, an ETC, false subscriber information to seek fraudulent Lifeline reimbursements. The complaint alleges, among other things, that Mr. Perez-Zumaeta engaged in a conspiracy to forge Lifeline recertification forms for thousands of subscribers in Oklahoma. Mr. Perez-Zumaeta was indicted in an Oklahoma City federal court on June 3, 2014. Mr. Perez pleaded guilty to one count of money laundering on November 7, 2014, and was sentenced to 3½ years in prison on April 22, 2015. ICON Telecom's owner entered into a plea agreement on June 12, 2014 and was sentenced to four years in federal prison on April 2, 2015. The FCC's OIG contributed to these cases.

Duplicate Enrollments and the FCC's Lifeline Notices of Apparent Liability ("NALs")

- **NLAD.** More than a year after it was due, the FCC's duplicates database known as the National Lifeline Accountability Database ("NLAD") is now up and running. The NLAD defines a duplicate subscriber as one with the same last name, date of birth AND last four digits of the social security number as another Lifeline subscriber. It uses this standard to screen duplicate Lifeline enrollment attempts in real-time at the time of application. The Lifeline Connects Coalition member companies actively worked with the FCC and USAC on the implementation of the NLAD, and still contribute to bi-weekly calls and webinars regarding changes and clarifications to NLAD operation. No database is perfect, but the NLAD uses a clear and reasonable duplicate definition and is working well.
- **Industry Self-regulation.** Prior to the implementation of the NLAD, the Lifeline Connects Coalition member companies joined with dozens of other ETCs to voluntarily utilize an interim inter-company duplicates database developed by CGM, LLC to prevent over 375,000 duplicate enrollment attempts. This equates to savings to the Lifeline program of over \$4 million per month or \$50 million annually.
- **Intra-company Duplicates.** Our companies proactively screen-out and block suspected unscrupulous enrollment attempts that could result in intra-company duplicates. We estimate that we are nearly 100% effective in doing so.

- **IDVs.** Prior to the NLAD coming online, USAC conducted state-by-state in-depth validations (“IDVs”) to screen duplicate enrollments. For purposes of the IDVs, the FCC instructed USAC to screen subscribers with the same name and same address. Instead, USAC looked for subscribers with similar names and addresses using its own undisclosed standards while ignoring subscriber social security number and date of birth information ETCs are required to collect and consider. Without an FCC rule or guidance, and while required to collect and use more consumer information than USAC reviewed, ETCs were left to guess which accounts included subscriber data close enough to be determined to be duplicates.
- **NALs.** Between September 30, 2013 and February 28, 2014, the FCC has issued 12 NALs to Lifeline service providers proposing fines totaling more than \$94 million for allegedly providing duplicate benefits to consumers totaling \$340,594. These items remain pending.
 - Lifeline Connects Coalition member companies (and other ETCs receiving these NALs) were nearly 100% perfect in blocking intra-company duplicate enrollments, yet the FCC has proposed massive fines for a miniscule percentage of accounts that USAC found to have largely similar subscriber information.
 - The NALs provide a false perception to the media, Congress and the American public that there has been over \$94 million in fraud committed in the Lifeline program, when in fact the alleged overpayments from the fund total \$340,594.
 - The FCC has failed to provide a clear and consistent definition of what constitutes a duplicate enrollment attempt by an applicant providing information and certifying to its veracity under penalty of perjury.
 - The FCC exceeded its authority in the NALs by seeking to hold ETCs strictly liable for the acts of apparently unscrupulous applicants seeking to obtain more than one Lifeline benefit.
 - The FCC’s proposed fines are excessive and threaten the viability of ETCs and our ability to provide Lifeline services to eligible consumers. The NAL fine structure results in proposed fines of up to 586 times the alleged over-payment in Lifeline disbursements (which have already been restored to the USF). A single alleged duplicate resulting in over-recovery of \$9.25 gets converted into more than \$25,000 in fines.
 - It is our understanding that the alleged instances of intra-company duplicate enrollments at issue in these NALs typically amount to less than 1% of each ETC’s enrollments analyzed, which is well under the 1.5% threshold set by the Improper Payments Elimination and Recovery Act (“IPERA”) for “significant improper payments” by a government agency program. Allegations of failure to perfectly screen alleged duplicate enrollments in 100% of cases should be addressed by the established disbursement claim revisions process and not through an enforcement proceeding based on strict liability and excessive fines.
 - **The Lifeline Connects Coalition supports fair and equitable enforcement, however, the NALs and the forfeiture structure announced in them do not represent a rational, fair or equitable approach to enforcement.**

EXHIBIT 7

Post-NAL State ETC Approval Orders